

**FILED**JUL 6 2020  
DAVID CREWS, CLERK  
BY Deputy

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PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF  
HABEAS CORPUS BY A PERSON IN STATE CUSTODY

United States District Court		District: <u>NORTHERN</u>
Name (under which you were convicted): <u>ROBERT CHAPMAN</u>		Docket or Case No.: <u>3:20-cv-200-GHD-JMV</u>
Place of Confinement: <u>Marshall County Correctional Facility</u>		Prisoner No.: <u>163212</u>
Petitioner (include the name under which you were convicted): <u>ROBERT CHAPMAN</u>		Respondent (authorized person having custody of petitioner): <u>JESSE J. WILLIAMS, Warden</u>
The Attorney General of the State of <u>MISSISSIPPI</u> <u>JEN HOOD</u>		

## PETITION

- (a) Name and location of court that entered the judgment of conviction you are challenging: DEKALB COUNTY CIRCUIT COURT, HERNANDO, MISSISSIPPI
- (b) Criminal docket or case number (if you know): LR2007-0312 CD
- (a) Date of the judgment of conviction (if you know): SEPTEMBER 23rd, 2010
- (b) Date of sentencing: OCTOBER 27th, 2010
- Length of sentence: LIFE, HERETUAL 399-19-83
- In this case, were you convicted on more than one count or of more than one crime? Yes ☒ No ☐
- Identify all crimes of which you were convicted and sentenced in this case: Count #1 Conspiracy, and Count #2 Armed Robbery
- (a) What was your plea? (Check one)
 

(1) Not guilty <input checked="" type="checkbox"/>	(3) Nolo contendere (no contest) <input type="checkbox"/>
(2) Guilty <input type="checkbox"/>	(4) Insanity plea <input type="checkbox"/>

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(b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to? HE PLEADED NOT GUILTY TO  
ONE COUNT OF CONSPIRACY AND ONE COUNT OF ARMED ROBBERY

(c) If you went to trial, what kind of trial did you have? (Check one)

Jury ☒ Judge only ☐

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

Yes ☐ No ☒

8. Did you appeal from the judgment of conviction?

Yes ☒ No ☐

9. If you did appeal, answer the following:

(a) Name of court: Court OF APPEALS, State OF mississippi

(b) Docket or case number (if you know): unknown

(c) Result: Affirmed

(d) Date of result (if you know): unknown

(e) Citation to the case (if you know): unknown

(f) Grounds raised: unknown / lost documents

(g) Did you seek further review by a higher state court? Yes ☐ No ☒

If yes, answer the following:

(1) Name of court: See EXHIBIT "G" attached.

(2) Docket or case number (if you know):

(3) Result:

(4) Date of result (if you know):

(5) Citation to the case (if you know):

(6) Grounds raised:

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(b) Did you file a petition for certiorari in the United States Supreme Court?

Yes ☐ No ☒

If yes, answer the following:

(1) Docket or case number (if you know):

See Exhibit C attached

(2) Result:

(3) Date of result (if you know):

(4) Citation to the case (if you know):

10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court?

Yes ☐ No ☒

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court:

Supreme Court of Miss. (See attached)

(2) Docket or case number (if you know):

Unknown

(3) Date of filing (if you know):

On or about July 2nd 2019

(4) Nature of the proceeding:

Application to Leave to Proceed in Trial Court

(5) Grounds raised:

(1) Whether The Habitual Action Of Chairman's sentence is illegal (2) Whether Court #1 For Conspiracy is defective For Failure To Charge An Offense (3) Whether The Trial Court Judge Was Without The Authority To Sentence Chapman To Life In Prison (4) Whether Chairman Was denied His Right To An Appeal (5) Whether Chairman Received ineffective assistance of Counsel (6) Whether Chairman's indictment is A Legal document

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

Yes ☐ No ☒

(7) Result:

Case Denied

(8) Date of result (if you know):

Unknown

(b) If you filed any second petition, application, or motion, give the same information:

(1) Name of court:

(2) Docket or case number (if you know):

(3) Date of filing (if you know):

(4) Nature of the proceeding:

(5) Grounds raised:

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(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

Yes ☐ No ☒

(7) Result:

Case Denied

(8) Date of result (if you know):

unknown

(c) If you filed any third petition, application, or motion, give the same information:

X NONE

(1) Name of court:

(2) Docket or case number (if you know):

(3) Date of filing (if you know):

(4) Nature of the proceeding:

(5) Grounds raised:

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

Yes ☐ No ☒

(7) Result:

Case Denied

(8) Date of result (if you know):

unknown

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition:

Yes ☐ No ☒

(2) Second petition:

Yes ☐ No ☒

(3) Third petition:

Yes ☐ No ☒

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not:

Expend only  
 Offered one appeal then it became time barred.  
 See 960 Exhibit B attached.

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12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

**CAUTION:** To proceed in the federal court, you must ordinarily first exhaust (use up) your available state court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

**GROUND ONE:** Whether The Habitual Portion of Chapman's Sentence is 11e91

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim): The State Failed TO Prove That Chapman was A Habitual Offender Within The means of 399-19-83 Rendering The imposed Life Sentence (Habitual) 11e91.

(b) If you did not exhaust your state remedies on Ground One, explain why: See Exhibit "G" Attached  
Family Card only offered one appeal

**(c) Direct Appeal of Ground One:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why: See Exhibit "G" Attached Had NO HCR Result.

**(d) Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes ☐ No ☒ Yes

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: Post conviction (See Attached)

Name and location of the court where the motion or petition was filed: MSB-6 Prems Court

For leave TO Proceed in The Trial Court

Docket or case number (if you know): Unknown

Date of the court's decision: Unknown



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Result (attach a copy of the court's opinion or order, if available):

denied

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion or petition?

Yes ☒ No ☐

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☒ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: Supreme Court, Leave TO Proceed in The Trial Court (See Attached).Docket or case number (if you know): UnknownDate of the court's decision: UnknownResult (attach a copy of the court's opinion or order, if available): NOT AVAILABLE

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

- (c) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: Filed Application For Leave TO Proceed in The Trial Court TO File Post-Conviction Relief. See Attached

GROUND TWO: Whether Count #1 For Conspiracy is defective For Failure TO Charge An offense.

(a) Supporting facts (Do not argue or cite law, just state the specific facts that support your claim): Count #1 For Conspiracy is defective For Failure TO include The Elements OF Conspiracy.

see attached PER

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(b) If you did not exhaust your state remedies on Ground Two, explain why: was denied Leave To Proceed in the Trial Court TO File Post Conviction Relief.

See Attached PCR

(c) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why:

Attached

See Exhibit "C"

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes ☐ No ☒

See Attached

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: Motion For Post Conviction Relief

Name and location of the court where the motion or petition was filed: 6th Prime Court For

Leave To Proceed in the Trial Court TO File PCR

Docket or case number (if you know): Unknown

Date of the court's decision: Unknown

Result (attach a copy of the court's opinion or order, if available): NOT AVAILABLE

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion or petition?

Yes ☐ No ☒

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☒

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

Attached Leave TO Proceed in The Trial Court was denied See Attached PCR

(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two: Ground Two Relief was denied (See Attached PCR)

**GROUND THREE:** Whether The Judge was without The Authority To Sentence Chairman TO Life.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): Under The Armed Robbery Statute The Jury Can Only Fix The Penalty For Life imprisonment The sentence is illegal.

(b) If you did not exhaust your state remedies on Ground Three, explain why: was denied leave TO Proceed in The Trial Court TO File Post-Conviction Relief. See Attached PCR

(c) Direct Appeal of Ground Three:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why:

See Exhibit "G" attached

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes ☒ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: Motion For Post-Conviction Relief (See attached)

Name and location of the court where the motion or petition was filed: Supreme Court For Leave TO Proceed in The Trial Court TO File PCR.



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Docket or case number (if you know): UNKNOWNDate of the court's decision: UNKNOWNResult (attach a copy of the court's opinion or order, if available): Denied  
inarguable

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion or petition?

Yes ☐ No ☒

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

See Exhibit G attached(c) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three: See Attached ApplicationFor Leave To Proceed in The 11th Cir To File Post-conviction ReliefGROUND FOUR: Whether Chairman was denied his right to an appeal in violation of Due Process (See Attached PCR)(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): Chairman  
was denied his right to an appeal based on Exhibit G  
(See Exhibit G attached)(Chairman Raised 6 issues in The Attached PCR)  
Chairman was entitled to appeal his sentence if not  
his convictions. (See Exhibit G attached)

(b) If you did not exhaust your state remedies on Ground Four, explain why:

Attached

See Attached Application For Leave To Proceed in The Trial Court To File Post-Conviction Relief

(c) Direct Appeal of Ground Four:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why:

See Exhibit G Attached

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes ☒ No ☐

denied

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

Motion For Post-Conviction Relief (Attached)

Name and location of the court where the motion or petition was filed:

Application For Leave To Proceed in The Trial Court To File PCR

Docket or case number (if you know):

Unknown

Date of the court's decision:

Unknown

Result (attach a copy of the court's opinion or order, if available):

Not Available

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion or petition?

Yes ☐ No ☒

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☒

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Attached Application For Leave To Proceed in The Trial Court To File PCR

Docket or case number (if you know):

Unknown

Date of the court's decision:

Unknown

Result (attach a copy of the court's opinion or order, if available):

Not Available

IN THE CIRCUIT COURT OF DEBOTO COUNTY, MISSISSIPPI

ROBERT CHAPMAN

PETITIONER PRO SE

V.

CAUSE NO.

STATE OF MISSISSIPPI

RESPONDENT

MOTION FOR POST-CONVICTION COLLATERAL RELIEF

COMES NOW, ROBERT CHAPMAN, Petitioner Pro Se in the Above Stated and Numbered Cause and Files this, His MOTION FOR POST-CONVICTION COLLATERAL RELIEF Pursuant to Miss. Code Ann. 399-39-1 et seq. and Miss. Code Ann. 399-39-7, 399-39-21 and in Support Would Show unto this Honorable Court the Following to-wit:

#1. (one)  
JURISDICTION

If Granted Leave to Proceed in this Trial Court this Court would have Jurisdiction over the Persons and the Subject Matter Pursuant to Miss. Code Ann. 399-39-1 et seq. and Miss. Code Ann. 399-39-5, et seq. And Further because the Petitioner was Convicted in this Case on or about September 23, 2010, and Signed September 28th 2010 in the Circuit Court of DeBoto County, Mississippi, Pursuant to a

Jury Trial And being Found Guilty Of The Offenses Of Armed Robbery And Conspiracy. The indictment did NOT Charge The Petitioner As A Habitual Offender Under §99-19-83.

#2. (Two)

IDENTITY OF PROCEEDINGS IN WHICH THE PETITIONER WAS CONVICTED.

PETITIONER Chapman Was Charged by Criminal Indictment With The Offenses Of Conspiracy Armed Robbery And Reckless Driving, The State Later Amended The Indictment To Alleged The Petitioner Habitual Offender Status Under §99-19-83.

#3. (Three)

DATE OF ENTRY OF JUDGMENT OF CONVICTION.

The Judgment Of Conviction in This Cause Was Filed by The Circuit Court Clerk Of Newton County, Massachusetts on or About OCTOBER 27th 2010, The Order imposing Sentence was Filed by The Circuit Court Of Newton County, Massachusetts on or About The 30th Day Of September 2010. in Criminal Cause No. CR2007-03121.

#24. (Four)

CONCISE STATEMENT OF THE CLAIM(S)  
AND GROUNDS UPON WHICH THEY ARE BASED.

ISSUE #1. (ONE)

Robert Chapman's Sentence is illegal and in Violation Of The 5th And 14th Amendment To The United States Constitution And Article 3, § 14 And § 26, Of The Constitution Of The State Of Mississippi. Post-Conviction Relief Should be Granted From Such an illegal Sentence Which Was imposed without The State Properly Finding Chapman a Habitual Offender Under Section 99-19-83. Chapman's illegal Sentence is a Violation Of Due Process And Should be Corrected.

ISSUE #2. (TWO)

Chapman's Sixth Amendment Right To Effective Assistance Of Counsel Was Violated. The Sixth Amendment Guarantees The Right To Effective Assistance Of Counsel in Criminal Prosecutions. The Failure To Object To The Appointment Of Chapman's Substandard Was Prejudicial. Counsel's Performance Was Deficient, And The Deficient Performance Was So Substantial It Prejudice Chapman And Deprived Chapman Of His Constitutional Right To Due Process in The Sentencing Phase Of These Proceedings. Chapman is Entitled To Relief.

## #5. (Five) STATEMENT OF IMPRISONMENT.

Petitioner Robert CHAPMAN is Presently incarcerated And is being Housed at The Marshall County Correctional Facility (MCCF), Mississippi. (Holt Springs, Mississippi) in Service Of The Term imposed in This Case. Petitioner Chapman has been Continuously Confined, in Regards to Such Sentence, Since date Of Conviction And imposition Of The Sentence by The Trial Court. CHAPMAN was Sentenced to a Term Of Life imprisonment, as a Habitual Offender Without Any Possibility Of Parole Or Early Release, Pursuant to Section 99-19-83.

## #6. (Six) STATEMENT OF THE CASE.

A Jury Convicted Chapman Of Conspiracy To Commit Armed Robbery. The ~~Jury~~ Circuit Court Adjudicated Chapman a Habitual Offender And Sentenced Chapman to Life imprisonment on both Convictions, with The Sentence to be Served Concurrently with Each Others in The Custody Of The Mississippi Department Of Corrections without Eligibility For Parole Or Probation. Chapman Filed A Motion For Judgment notwithstanding The Verdict (Jury) Or, in The Alternative, A New Trial, Which The Circuit Court Denied.



IN THE CRIMINAL COURT OF DEBOTO COUNTY, MISSISSIPPI

## STATEMENT OF FACTS

The Intended Bank Deposit Of Bull Market Ltrso in Southaven, Mississippi, Was Taken At Gunpoint By Two Men Outside The Station. They Were Parked Facing Out And Coincidentally Right Next To The Car Of Dana Ozment, Who Was Making The Deposit. The Description Of The Car Was Immediately broadcast And A Car Fitting The Description Was Spotted Heading North On I-55. A Chase Ensued, Resulting In The Arrest Of Two Men. The Bank Bag With Deposits And Deposit Slip, Dana Ozment's Purse, And, A Glock Pistol Were Recovered. Chairman Confessed To Memphis Police (except For The Use Of A Pistol), And The Getaway Driver Testified Against Chairman At Trial. Ozment Was Not Asked To Identify Either Man At Trial.

Prior To Trial A Suppression Hearing On Chairman's Statement To The Memphis Police Was held. The Statement Was Found To Have been Voluntarily And Knowingly Made Under The Totality Of The Circumstances. (T. 63-66).

Four Southaven Police Department Officers Testified To The Pursuit And Apprehension Of Robert Chairman. (T. 117-126, 145-152, 156-157, 164-165). Two Of The Officers Testified To The Recovery Of Evidence Linking Chairman To The Robbery, including A "Toboggan" hat, The Money bag And Deposit Slip, Dana Ozment's Purse, A Plastic bag Containing Cash, And A Glock Pistol. (T. 157-158, 167-180). Officer Walter Gunn Of The Memphis, Tennessee Police Testified To Having Mirandized

Chairman And Taking His Statement Admitting Involvement. (T. 196-197). Joshua Chapman Testified Against His Uncle Saying They Had Agreed To "Pull Off A Robbery" And Saying He Was The Getaway Driver And Robert Chapman Committed The Robbery. (T. 199). He Pled To Conspiracy To Commit Armed Robbery. (T. 203). Dana O'Ment, Originally Shown As "Donna O'Ment" in the indictment (T. 233), Testified To The Robbery And Identified The Recovered Items. (T. 206-218). The Defense Did Not Put On Any Evidence.

IN THE CIRCUIT COURT OF NEGRO COUNTY, MISSISSIPPI

ARRAIGNMENT

ISSUE #1, Whether The Habitual  
Portion Of Chapman's Sentence is  
ILLEGAL.

Petitioner Chapman Would Assert Here That The HABITUAL PORTION OF HIS SENTENCE IS ILLEGAL Due To The State's Failure To Prove Chapman's Habitual Offender Status Pursuant TO SECTION 99-19-83 Beyond A Reasonable Doubt As Required By The DUE PROCESS CLAUSE OF THE 14TH AMENDMENT, in SUPPORT See IN RE WATSON, 397 U.S. 358, 364 (1970), See ALSO SULLIVAN V. LOUISIANA, 508 U.S. 275, 278 (1993).

THE RECORD REFLECTS THAT PETITIONER CHAPMAN WAS NOT INDICTED AS AN HABITUAL OFFENDER, in SUPPORT See EXHIBIT "A" ATTACHED, HERETO. in GRAY V. STATE, 120 So. 3d 964 (2013) THE MISSISSIPPI SUPREME COURT HELD THAT, "TO SENTENCE A DEFENDANT AS A HABITUAL OFFENDER, ALL THAT IS REQUIRED IS THAT THE ACCUSED BE PROPERLY INDICTED AS AN HABITUAL OFFENDER, AND THAT THE PROSECUTION PROVE THE PRIOR OFFENSES BY COMPETENT EVIDENCE, AND THAT THE DEFENDANT BE GIVEN A REASONABLE OPPORTUNITY TO CHALLENGE THE PROSECUTOR'S PROOF."

ON OR ABOUT OCTOBER 26<sup>TH</sup> 2010, THE STATE FILED POST-TRIAL MOTIONS TO BRING HEARINGS TO DETERMINE THE PETITIONER'S HABITUAL OFFENDER STATUS AND TO SENTENCE THE

Petitioner as an Habitual Offender Pursuant to Section 399-19-83, See Exhibit "B" Attached, Hereto. On OR About September 24<sup>th</sup>, 2009, Pursuant to Circuit And County Court Rule 7.09 The State Filed A Motion To Amend The indictment, The Was To Amend Only Count #1 And Count #2 Of The Three (3) Count indictment, See Exhibit "L" Attached, Hereto. On OR About June 28<sup>th</sup> 2010 An ORDER Amending indictment Was Filed Reflecting The Petitioner's Prior Convictions To Enhance Chapman's Sentence Pursuant to Section 399-19-83, See Exhibit "D", Attached, Hereto. And Exhibit "L".

The Record Reflects That The State Elected To Charge Chapman as an HABITUAL OFFENDER Pursuant to Section 99-19-83 See Exhibits "B", "L" And "D" Attached.

When Chapman Was Sentenced as an Habitual Offender Pursuant to Section 99-19-83 On Or About October 26<sup>th</sup> 2010, § 99-19-83 Provided The Following: "Every Person Convicted in This State Of A Felony Who Shall have been Convicted Twice Previously Of Any Felony Or Federal Crime Upon Charges Separately brought And Arising Out Of Separate incidents At different Times And Who Shall have been sentenced To And served separate Terms Of One (1) Year or more in any State And/or Federal Penal institution, Whether in This State Or Elsewhere, And Where Any One (1) Of Such Felonies Shall have been a Crime Of Violence Shall be Sentenced To life imprisonment, And such Sentence Shall not be Reduced Or Suspended Nor Shall such Person be Eligible For Parole Or Probation". (Miss. Code Ann. § 99-19-83 (2010)).

At The Hearing To Determine Chapman's HABITUAL OFFENDER STATUS Pursuant To 399-19-83, The State Presented To The Court Exhibit "E", The States Exhibit "1" To Prove Chapman's Prior Convictions Used To Enhance Chapman's Sentence Pursuant To Section 99-19-83. Chapman Would Assert Here That The States Exhibit "1" is insufficient To Prove His HABITUAL OFFENDER STATUS Pursuant To 399-19-83. The Mississippi Supreme Court Further Held in Goyer V. State, 120 So. 3d 964 (2013), That "The best Evidence Of A Conviction, For Purpose Of HABITUAL Offender Sentencing, is The Judgment Of Conviction".

LAWRENCE J. WHITMAN, The Director, Of Sentence Management Services Did Not Appear At The Sentencing Hearing To Testify Concerning Chapman's Prior Convictions As She Stated in Exhibit "E". --- Under The Requirements Of The INTERVENTIONAL PETITION OF The United States Supreme Court in BULLINGTON V. NEW MEXICO, 131 S. Ct. 2705, U.S. (No. 09-10867) (June 23rd, 2011). The Petitioner Was Denied Due Process Of Law, in Violation Of The 5th And 14th Amendment To The United States Constitution Where The Prosecution Failed To introduce Testimony From The Witness Which Certified The Documents Used To Prove Prior Convictions Which Thereby Deprived The Petitioner Of His Right To Confrontation And Thereby Invalidated The Habitual Portion Of The indictment and Sentence imposed.

In The Case At Bar, Exhibit "E" Does Not indicate Any Judgment Of Convictions To Prove That Chapman Was Convicted Of ANY Of The Crimes (Prior Convictions) Used To



Enhance Chapman's Sentence as a Habitual Offender Pursuant to § 99-19-83. The Habitual Portion Of Chapman's Sentence is ILLEGAL and Should be Vacated. Exhibits "E" and "F" are both insufficient to Prove Prior Convictions Used To Enhance Chapman's Sentence as a Habitual Offender Pursuant to § 99-19-83. Exhibit "E" indicates a Date Of September 9th 1993, For Sentencing, Exhibit "F" indicates a Date Of September 8th 1993, For Sentencing, For Attempted Second Degree Murder. Case No. 93-10011. For The Sale Of Cocaine Case No. 93-06344 Exhibit "E" indicates a Three Year Sentence, Which is 1,095 Days, Exhibit "F" indicates For The Same Charge 906 Days. This Evidence is insufficient to Prove Chapman's Prior Convictions beyond A Reasonable Doubt.

CHAPMAN Has Proved That The State Failed it's Burden Of Proof beyond A Reasonable Doubt. it's Very Clear That The State introduced into Evidence Exhibit "E" to Prove Chapman's Prior Convictions Which Does Not indicate ANY JUDGMENT OF CONVICTIONS. Exhibit "F," The Sentencing Hearings Related indicates That The State's Exhibit "I" Chapman's Exhibit "E" Was Used To Enhance Chapman's Sentence as a Habitual Offender Pursuant to Section 99-19-83. The Habitual Portion Of Chapman's Habitual-Offender Sentence Enhancement Should be Vacated because The State Failed To Prove Chapman Was A Habitual Offender by Competent Evidence Pursuant to Section 99-19-83.

In Support Of This Argument Chapman Cites The Following Authority, Shart V. State, 929 So. 2d 420 (Miss. 2006), Lax V. State, 586 So. 2d 761 (Miss. 1991), Smith V. State, 477 So. 2d 191 (Miss. 1985), USM And Barrett V. State, 378 So. 2d 635 (Miss. 1979),



Vinle V. State, 844 So. 2d 510 (Miss. 2003), ARD V. State, 403 So. 2d 875 (Miss. 1981), Akins V. State, 493 So. 2d 1381 (1986), Williams V. State, 131 So. 3d 1174 (2014), Reyes V. State, 549 So. 2d 949, 951 (Miss. 1989), DeBussis V. State, 453 So. 2d 1030 (Miss. 1984), 28 U.S.C. 31739, Rules 901 and Rule 902 Of The Mississippi Rules Of Evidence, King V. State, 527 So. 2d 141, 146 (Miss. 1988), McCormick On Evidence, 3258 at 700 (E. Hearst ed. 1984), Pale V. State, 407 So. 2d 530 (Miss. 1981), See Also, Appendi V. New Jersey, 530 U.S. 416 (2000).

In SUM, Chairman Asserts That The Habitual Portion Of His Sentence is ILLEGAL because The State Failed To Prove His Habitual-Offender Status With Competent Evidence. Exhibit "E" Evidence is insufficient. Chairman Further Asserts That He Has A Fundamental Right To be Free Of An ILLEGAL Sentence, See Rowland V. State, 42 So. 3d 503 (2016) Rowland V. State, 98 So. 3d 1032 (2012), IV V. State, 731 So. 2d 101, 103 (Miss. 1999), See Also Goyer V. State, 120 So. 3d 914 (2013).

The Habitual-Offender Sentence imposed Upon Chairman is ILLEGAL, That Sentence Should be Vacated, And Chairman Resentenced, in Violation Of THE PROLESS.

IN THE CIRCUIT COURT OF DEBBIE COUNTY, MISSISSIPPI

ARGUMENT

ISSUE #2 Whether Count #1 For Conspiracy of Chapman's indictment is Defective For The Failure To Charge An Element Of The Offense:

ANALYSIS:

Whether A Specific Person, As The Intended Victim Of A "CONSPIRACY," Must Be Named In The Indictment.

The Issue Here Involves Count #1 Of Chapman's Indictment Exhibit "A" Attached Hereto, The Conspiracy Charge. The Conspiracy Count Provides:

"That Joshua D. Chapman (a/k/a Joshua D. Jackson) and Robert Chapman, late of The County and State aforesaid, on or about the 26th day of NOVEMBER, in the Year of Our Lord 2020, in The County and Said State aforesaid, and Within The Jurisdiction of This Court, did Wilfully, Unlawfully and Feloniously, CONSPIRE, Agree, Conspire and Confederate, each With The Other and With divers others To The Grand Jury Unknown, TO Commit A Crime, TO-WIT: Armed Robbery, in direct Violation of Section 97-1-1(a), Mississippi Code 1972 Annotated, As Amended, Contrary To The Term of The Statute in Such Cases Provided, and Against The Peace and Dignity of The State of Mississippi."

In Sanderson Vs. State, 883 So. 2d 558, decided September 23rd, 2004, The Court Of Appeals For The State Of Mississippi; Majority Reversed The Conspiracy Conviction because Count #2 Does Not List Gary Mullins as The Victim Of The Aggravated Assault. The Court Of Appeals Majority Cites Burks Vs. State, 770 So. 2d 960, 963 (Miss. 2000), Which States, "An indictment must state the name of the victim of an offense where that is an element of the offense...." We Agree That This is a Correct Statement Of The Law.

Chairman's Issue And Argument is Very Similar To "Sanderson's". Count #1 Of Chairman's indictment For Conspiracy Fails To List The Intended Victim Of Their Conspiracy Which Name is "Donna Olment". Her Name Appears in Count #2 Of Chairman's indictment, Exhibit 2, Count #2 is the named Robbery Count. Chairman Would Assert Here That Count #1 The Conspiracy Count is defective because it fails to list "Donna Olment's" Name, The intended victim of a conspiracy, which is an element of the offense, in support of this issue and argument see Burks Vs. State, 770 So. 2d 960, 963 (Miss. 2000).

In The Case At Bar, Donna Olment According To Count #2 Of Chairman's indictment Exhibit 2, Was The Victim Of a named Robbery, Count #1 Charges Chairman With Conspiracy To Commit named Robbery, Donna Olment Was The intended Victim Of A Conspiracy and Donna Olment's Name Should Have been listed in The Conspiracy Count, Count #1 as an element of the offense. In Burks Vs. State, 770 So. 2d 960, 963 (Miss. 2000), The Court Held That, "An indictment must state the name of the victim of an

Offense Where That is An Element Of The Offense.

Chapman Would Assert Here That "Count #1" Of His indictment Exhibit A For Conspiracy is Defective Because it Failed TO Include The Conspiracy Elements. The Trial Record Reflects That Joshua Chapman Testified That He And Petitioner Chapman "Agreed" TO "Pull Off A Robbery" (J.199). A Jury Found Petitioner Chapman Guilty Of Conspiracy TO Commit Armed Robbery, The Trial Record Would Further Reflect That Joshua Chapman Entered A Plea Of Guilty TO The Charge Of "Conspiracy TO Commit Armed Robbery".

In Graham Vs. State, 204 So. 3d 329 (Miss. Ct. App. 2016), The Court Held That, --- "A Conspiracy Occurs When Two Or More Persons Conspire TO Commit A Crime". Miss. Code Ann. 397-1-1(a)(2006). "For There TO be A Conspiracy," There Must be Reckognition On The Part Of The Conspirators That They Are Entering into A Common Plan And Knowingly intend TO Further its Common Purpose". The Conspiracy Agreement Need Not be Formal Or Express, but May be inferred From The Circumstances, Particularly by declarations, Acts, And Conduct Of The Alleged Conspirators.

"Count #1 Of Chapman's indictment For Conspiracy" is Clearly Defective For Failure TO Charge An Offense. The Conspiracy Count, Count #1 Alleges No "Common Plan" And "Knowingly intend" TO Further its Common Purpose, And Without These "Conspiracy Elements", There is No "Conspiracy". Graham Vs. State, 204 So. 3d 329 (Miss. Ct. App. 2016).

Chairman would assert here that Count #1 For "Conspiracy To Commit Armed Robbery" Failed To Give Him Adequate Notice Of The "Conspiracy To Commit Armed Robbery" Charge Against Him. The Court Further Held in Coraham VS. State, 201 Co. 3d 329 (Miss. Ct App. 2016), Stating: "As Our Caselaw Establishes":

"The Purpose Of An Indictment is To Give The defendant Reasonable Notice Of The Charges Against Him in Order That he May Prepare An Adequate defense". Braun VS. State, 947 Co. 2d 251, 265 (Miss. 2006), (Citing Brown VS. State, 890 Co. 2d 901, 918 (Miss. 2004)). Indictments Must Contain "A Plain, Concise, And definite Written Statement Of The Essential Facts Constituting The Offense Charged And Shall Fully Notify The defendant Of The Nature And Course Of The Accusation". LRMC 7.06. The ultimate test for the validity of an indictment is "Whether The defendant Was Prejudiced in Preparing His Defense". Medina VS. State, 688 Co. 2d 727, 730 (Miss. 1996).

Prejudiced: Chairman would assert here that He Was Prejudiced by the defective Count, Count #1 For "Conspiracy To Commit Armed Robbery" because the Grand Jury Return the indictment without finding that Count #1 Failed To Charge An Offense, and without finding that the "Conspiracy Elements" were not charged in Count #1. Chairman's Appeal Attorney Stated That He Searched The Record And The indictment And Found That Chairman Had No Arguable Issues For An Appeal. See Exhibit "G" Attached Hereto, Chairman Was Sentenced To Life Without Parole Or Probation For Count #1 and Chairman Was Denied His Right To A Meaningful Appeal. Prejudiced indeed.



Chairman further asserts that Count #1, "Conspiracy To Commit Armed Robbery", is defective for failure to provide the elements of the crime, and that Count #1 is insufficient for failure to charge an offense. Chairman asserts here that the defective Count #1 prejudiced him 100% because it fails to charge the offense for which he was convicted.

In United States V. Labrera-Teran, 168 F. 3d 141 (1999), the United States Court of Appeals for the Fifth Circuit, held that "...to be sufficient, an indictment must allege each material element of the offense; if it does not, it fails to charge that offense." This requirement stems directly from one of the central purposes of an indictment: "to ensure that the Grand Jury finds probable cause that the defendant has committed each element of the offense," hence justifying a trial as required by the U.S. Const. Amend. V.

In Labrera-Teran, the Court further held that "the indictment ensures that the Grand Jury has had the opportunity to review evidence supporting, and find sufficient cause to charge a defendant with, each element of the offense before the Court may entertain prosecution." Only the appearance in the indictment of all of the offenses elements met this requirement.

Chairman's indictment Exhibit A, Count #1 fails to meet the proper requirements, therefore, Count #1, "Conspiracy To Commit Armed Robbery", is defective and insufficient for failure to charge an offense. Count #1 for "Conspiracy To Commit Armed Robbery" should be vacated.



The Court also held in United States Vs. Labrera-Teran, 168 F.3d 141 (5th Cir. 1999), "to guarantee the right to be tried only after indictment, the Grand Jury must consider and find evidence supporting all of the crime's elements." in Headnote 1. The Court also stated: "We review de novo a challenge to the sufficiency of an indictment." United States Vs. Fitzgerald, 89 F.3d 218, 221 (5th Cir. 1996). "An indictment's failure to charge an offense constitutes a jurisdictional defect." because an indictment is jurisdictional, defendants at any time may raise an objection to the indictment based on failure to charge an offense, and the defect is "not waived by a guilty plea". Morales-Rosales, 838 F.2d 1359 at 1361-62; see also FED. R. CRIM. P. 12(b)(2). If an objection is "raised for the first time on appeal and the appellate does not assert prejudice,"... the indictment is to be read with maximum liberality finding it sufficient unless it is so defective that by any reasonable construction, it fails to charge the offense for which the defendant is convicted. Fitzgerald, 89 F.3d at 221.

In Bishop Vs. State, 812 So. 2d 934 (2002) The Supreme Court of Mississippi affirmed the jury verdict and the imposition of the death penalty by the circuit court... and went on to state in Headnote 7 that, -- "The Supreme Court of Mississippi will reverse any case upon which a defendant was convicted on an element of the offense not contained in the indictment".

Chairman asserts here that he's entitled to that reversal on Count #1, "Conspiracy to Commit Armed Robbery" for failure to charge an element of the offense.

IN THE COURT OF LEBANON COUNTY, MISSOURI

Argument

ISSUE #3 Whether The Trial Court Judge Was Without The Authority To Sentence Chapman To Life Imprisonment Pursuant To A Jury Finding Chapman Guilty Of Armed Robbery Pursuant To Miss. Code Ann. 397-3-79 (Supp. 2010), And The Jury "Not" Fixing The Penalty Of Imprisonment For Life in The State Penitentiary, Under Miss. Code Ann. 397-3-79 (Supp. 2010).

PETITIONER Chapman Would Assert Here That The Trial Court Judge Was Without The Authority To Sentence Him To Imprisonment For Life in The State Penitentiary For The Offense Of "ARMED ROBBERY" Pursuant To Miss. Code Ann. 397-3-79 (Supp. 2010).

Chapman's Indictment Exhibit "A" Attached Hereto Clearly Indicates That Chapman Was Charged in Count #1, CONSPIRACY TO COMMIT THE CRIME OF "ARMED ROBBERY", in direct Violation Of Section 97-1-1(A), And Count #2 Charges Chapman With The Offense Of "ARMED ROBBERY" by The Exhibition Of A deadly Weapon to-wit: A Handgun, in direct Violation Of Miss. Code Ann. 397-3-79, Cause No. CR 2007-0312 LD.

Exhibit "B" Attached Hereto, DENIAL OF POST-TRIAL  
MOTION, HABEAS OFFENDER HEARINGS AND SENTENCE OF THE  
COURT, indicates that it was The Trial Court Judge, And "Not  
The Jury" That Sentenced Chapman To Serve A Term Of "Life"  
"IMPRISONMENT," And Life imprisonment, Without The Eligibility  
For Parole, As A "HABEAS OFFENDER" Under Miss. Code Ann.  
Section 99-19-83, For The Conviction Of "ARMED ROBBERY" Under  
Miss. Code Ann. 397-3-79 (Supp. 2007-2010). Cause No. CR0007-  
312-LD.

REITERATE Chapman Would Assert Here, And "State  
The Claim" Of An "ILLEGAL SENTENCE" Pursuant To The  
 Trial Court Judge imposing Life imprisonment in the State  
 Penitentiary (in the custody of The Mississippi Department of  
 Corrections) Upon A Conviction For "ARMED ROBBERY" Pursuant To  
 Miss. Code Ann. 397-3-79, When The Statute Clearly  
 Prohibits The Trial Court Judge From imposing "Life imprisonment  
 in The State Penitentiary" Upon A Conviction" For "ARMED ROBBERY"  
 Pursuant To Miss. Code Ann. 397-3-79.

REITERATE Chapman Would Assert Here That His "Claim"  
 Of An "ILLEGAL SENTENCE" is Not Time-barred Under The Three-  
 Year Statute Of Limitations Of The "Uniform Post-Conviction  
Collateral Relief Act" (UPCRA), because The State is Without The  
 Authority Or Right To impose A "Sentence ILLEGALLY" Or Without  
DUE PROCESS. U.S.C.A. Const. Amendments 5, 14; Also in Support  
 Chapman Cites The Authority Of Rowland Vs. State, 42 So. 3d  
503 (2010), And Rowland Vs. State, 98 So. 3d 1032 (2012).

IN SUPPORT OF HIS CLAIM AND ARGUMENT THAT THE TRIAL COURT JUDGE WAS WITHOUT THE AUTHORITY TO IMPOSE "LIFE IMPRISONMENT IN THE STATE PENITENTIARY" UPON A CONVICTION FOR "ARMED ROBBERY" UNDER MISS. CODE ANN. 397-3-79, CHARMAN CITES MISSISSIPPI'S "ARMED ROBBERY" STATUTE 397-3-79. ROBBERY'S USE OF DEADLY WEAPON. WHICH PROVIDES THAT: "EVERY PERSON WHO SHALL FELONIOUSLY TAKE OR ATTEMPT TO TAKE FROM THE PERSON OR FROM THE PRESENCE THE PERSONAL PROPERTY OF ANOTHER AND AGAINST HIS WILL BY VIOLENCE TO HIS PERSON OR BY PUTTING SUCH PERSON IN FEAR OF IMMEDIATE INJURY TO HIS PERSON BY THE EXHIBITION OF A DEADLY WEAPON SHALL BE GUILTY OF ROBBERY AND, UPON CONVICTION, SHALL BE IMPRISONED FOR LIFE IN THE STATE PENITENTIARY IF THE PENALTY IS SO FIXED BY THE JURY; AND IN CASES WHERE THE JURY FAILS TO FIX THE PENALTY OF IMPRISONMENT FOR LIFE IN THE STATE PENITENTIARY THE COURT SHALL FIX THE PENALTY OF IMPRISONMENT IN THE STATE PENITENTIARY FOR ANY TERM NOT LESS THAN THREE (3) YEARS". 397-3-79, (SUPP. 2007-2010-2011).

IN FURTHER SUPPORT OF HIS CLAIM AND ARGUMENT THAT THE TRIAL COURT JUDGE WAS WITHOUT THE AUTHORITY TO IMPOSE A TERM OF "LIFE IMPRISONMENT IN THE STATE PENITENTIARY" UPON A CONVICTION OF "ARMED ROBBERY" UNDER MISS. CODE ANN. 397-3-79, CHARMAN CITES THE AUTHORITY OF KENNEDY VS. STATE, 606 SO. 2D 103, (DECIDED OCTOBER 21, 1993), NO. 91-KP-0712. A SIMILAR CLAIM AND ARGUMENT LIKE CHARMAN'S, "KENNEDY" WAS ALSO CHARGED WITH "ARMED ROBBERY" LIKE CHARMAN, AND WAS SENTENCED TO 99 YEARS IN WHICH THE SUPREME COURT OF MISSISSIPPI CONSIDERED A LIFE SENTENCE, AND HELD THAT, THE SENTENCING COURT HAD EXCEEDED ITS STATUTORY AUTHORITY. THE SUPREME COURT OF



Mississippi Reversed and Remanded AS TO The Lower Court's Denial Of Relief Of 99-Year Sentence For "ARMED ROBBERY". Kennedy Vs. State, 626 So. 2d 103 (1993 Miss.).

A Sentencing Claim May be Exempt From Such Procedural bars Of The Mississippi Uniform Post Conviction Lateral Relief Act. See Miss. Code Ann. § 99-39-5 (2), § 99-39-21 (3) (Supp. 1992). Where it is Clear From The Record That The Circuit Court Has Exceeded its Statutory Authority in Sentencing And Fundamental Constitutional Rights may be involved.

Like "Kennedy", Chairman Will Also Rely On Stewart Vs. State, 372 So. 2d 257 (Miss. 1979). in Support Of His Claim And Argument, That The Trial Court Judge Exceeded its Statutory Authority in Sentencing Chairman To Life imprisonment in The State Penitentiary" Upon Conviction for "Armed Robbery" Under Miss. Code Ann. § 97-3-79. "STEWART" Was Also Convicted Of "Armed Robbery" Pursuant To Miss. Code Ann. § 97-3-79 (1992). Like "Kennedy" And Petitioner Chairman, in "STEWART'S" Case, The Jury Failed To Fix His Penalty At Life imprisonment, And The Trial Court Subsequently Sentenced "STEWART" To 75 (Seventy-Five) Years in Prison. The Supreme Court Of Mississippi Found That A Seventy-Five (75) Year Sentence Was in Effect A Life Sentence, And That Such A Sentence Was Outside The Trial Court's Authority Under § 97-3-79. The Supreme Court Of Mississippi Reversed "STEWART'S" Sentence And Remanded "for Sentencing for a definite term Reasonably Expected to be less Than Life". Stewart, 372 So. 2d at 259.

In This "Argument" And "Claim" Of An "Illegal Sentence", This Claim is Not Time-barred, See Rowland Vs. State, 42 So. 3d 503 (2010), Rowland Vs. State, 98 So. 3d 1032 (2012). --- The Supreme Court Of Mississippi Has Repeatedly Held That Such A Claim May Be Exempt From Such Procedural bars Where it is Clear From The Record That The Circuit Court Has Exceeded its Statutory Authority in Sentencing And Fundamental Constitutional Rights may be involved. Luckett Vs. State, 582 So. 2d 428 (Miss. 1991), Grubb Vs. State, 584 So. 2d 786 (Miss. 1991).

Like "KENNEDY" And "STEWART" Petitioner Charman is Entitled To Have The Portion Of The Circuit Court's Order Which Pertains To Charman's "ARMED ROBBERY" Conviction Reversed And Remanded For Resentencing Under The Guidelines Of "KENNEDY" And "STEWART". --- Petitioner Charman Has A Fundamental Right To be Free Of An "Illegal Sentence". See Grover Vs. State, 120 So. 3d 964 (2013).



IN THE LERBERT LAIR OF DESOTO COUNTY, MISSISSIPPI

ARGUMENT

ISSUE #4, Whether Chapman Was Denied His Right To An Appeal In Violation Of Due Process.

Prisoner Chapman would assert here that he was denied his right to an appeal by Attorney W. Daniel Hinchliff, in violation of due process of the Fourteenth Amendment....

When Chapman was found guilty of "CONSPIRACY" TO COMMIT "ARMED ROBBERY," AND "ARMED ROBBERY" AND sentenced to life imprisonment without the possibility of parole or probation, Attorney Hinchliff gave a "STATEMENT OF COUNSEL," stating that he could not find any issues that could be presented to the Court of Appeals. See, Exhibit "G," "STATEMENT OF COUNSEL". Attached Hereto,

In his "STATEMENT OF COUNSEL," Attorney Hinchliff stated that he diligently searched the entire record high and low and found "NO" "ARGUABLE ISSUES" TO present to the Court of Appeals. The "STATEMENT OF COUNSEL," Exhibit "G" speaks for itself.

Chapman had a right to an appeal pursuant to Miss. Code Ann. § 99-35-101, the statute provides that: "Any

Person Convicted Of An Offense In A Circuit Court May Appeal To The Supreme Court. However, Where The Defendant Enters A Plea Of Guilty And Is Sentenced, Then No Appeal From The Circuit Court To The Supreme Court Shall be Allowed. MSA 399-35-101.

The Record Will Reflect That Petitioner Chapman Went To Trial And Was Found Guilty By A Jury In The Circuit Court, DeSoto County, Mississippi, On The Charges Of "CONSPIRACY TO COMMIT ARMED ROBBERY" And "ARMED ROBBERY" Case NO. CR2007-0312 CD.

Petitioner Chapman Would Assert Here That He Has A Right To An Appeal Pursuant To The "Mississippi Rules Of Appellate Procedure", "Appeals From Trial Courts", Rule #3.

To Prevail On This Issue Petitioner Chapman Must Demonstrate That He Has Atleast "One" "Arguable Issue" because Attorney Windmiff Stated In His "Statement Of Counsel" Exhibit "C" Attached Hereto That He Could Find "NO" "Arguable Issues" To Present To The Court Of Appeals, On Behalf Of Petitioner Chapman.

Chapman Would Direct The Court's Attention To His Motion For Post Conviction Constitutional Relief, "ARBITRARY" and "ISSUE #1" When The Court Review "Argument And Issue #1" And Review The Record And All The Evidence, The Court Will Find That The State Failed To Prove Chapman's Offender, Habitual Offender Status, Pursuant To Miss. Code Ann. 399-19-83. The Court Will Find That The States Exhibit "I" Marked As "Exhibit E" In These Proceedings Is Insufficient To Prove Chapman's Habitual Offender Status Pursuant To MSA 399-19-83. The State Presented "NO" Judgment Of Convictions To Help Prove Chapman's Habitual

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Offender Status. As Chairman advised, The Mississippi Supreme Court Made it Clear and Stated in Grayer Vs. State, 120 So 3d 964 (2013), That, --- The best Evidence of a Conviction, For Purposes Of Habitual Offender Sentencing, is The Judgment Of Conviction.

When The Court Reviews "Argument" and "Issue #1" Of Chairman's Motion For Post-Conviction Collateral Relief, it Will Find That The State Failed To Prove Chairman's Habitual-Offender Status With Competent Evidence. The Court Will Find That The State's Exhibit 1, Marked As "Exhibit E" in These Proceedings Attached Hereto, States "NO" "Judgment Of Convictions" For The Prior Convictions Used To Enhance Chairman's Sentence As A Habitual Offender Pursuant To Miss. Code Ann. 39-19-83. Chairman's State Of Tennessee Pin Box "Exhibit E", The State's "Exhibit 1" Failed To Show That Chairman Was Convicted For Any Of The Offenses Used To Enhance Chairman's Sentence As A Habitual Offender. And The Record Will Reflect That Candace J. Whitman, Never testified Concerning The State Of Tennessee Pin Box She Sent To The District Attorney's Office, According To The "Intervening Decision" Of The United States Supreme Court in Bullcoming Vs. New Mexico, 131 S. Ct. 2705, U.S. (No. 09-10867) (June 23rd, 2011), The State's "Exhibit 1" is insufficient To Prove Chairman's Habitual Offender Status Pursuant To Miss. Code Ann. 39-19-83. --- "Argument" and "Issue #1" is an "ARBITRARY ISSUE", and Chairman Should Have Had an Appeal.

Chairman Directs The Court's Attention To "Argument" And "Issue #2" Of His Motion For Post-Conviction Collateral Relief, in Issue #2 Chairman is Claiming That Count #1 Of The indictment Exhibit "A" For "Conspire To Commit Armed Robbery" is Defective For

Failure To Charge ~~an~~ Element Of The Offense. Petitioner Chapman Would Assert Here That in Reviewing "Argument" And "Issue #2", The Court Will Find That Count #1 Of Chapman's indictment Exhibit "A" Fails To include The "Elements Of Conspiracy" as argued.

Chapman Cites The authority Of Graham Vs. State, 204 So. 3d 329 (Miss. Ct. App. 2016). To Help Prove That Count #1 For "Conspiracy To Commit Armed Robbery" is Defective For Failure To include The "Elements Of Conspiracy", And To DEMONSTRATE That "Argument" And Issue #2 is an "ADEQUATE ISSUE".

Chapman Would Assert Here That Count #1 in His indictment Exhibit "A", Attached Hereto For "Conspiracy To Commit Armed Robbery" is Clearly Defective For Failure To Charge ~~an~~ Offense. The Conspiracy Count, Count #1 Alleges "No Common Plan" And "Knowingly intend, To Further its Common Purpose", And Without These "Conspiracy Elements" There is NO Conspiracy". in support See Graham Vs. State, 204 So. 3d 329 (Miss. Ct. App. 2016).

Chapman Asserts Here That Count #1 For "Conspiracy To Commit Armed Robbery" Fails To Give Him "Adequate Notice" Of The "Conspiracy To Commit Armed Robbery Charge Against Him". in Reviewing "Argument" And "Issue #2" in Chapman's Motion For Post-Conviction Collateral Relief, The Court Will Find That Count #1, "is Not A Plain, Concise, And definite written statement Of The Essential Facts Constituting The Offense Charged". And "Does Not FULLY NOTIFY" Chapman Of The "Nature" And "Cause Of The Allegation", See Circuit Court Rule #7.06. The Ultimate Test For The Validity Of An indictment is "Whether Chapman Was Prejudiced in Preparing His Defense". in support See Medina Vs. State, 688 So. 2d 727, 730 (Miss. 1996). Chapman Was Prejudiced By The Defect.



Chairman Would Assert Here That "Argument" And "Issue #2" is an "Arguable Issue". Count #1 For Conspiracy To Commit Armed Robbery is Defective For Failure To Provide The Elements Of The Crime, And is insufficient For Failure To Charge An Offense, Chairman asserts Here That Count #1 Precluded Him 100% because it Fails To Charge The Offense For Which He Was Convicted.

On The Issue Of Elements Of The Offense, See United States Vs. Labrega-Teran, 1108 F. 3d 141 (9th Cir. 2019), Federal Rule Of Criminal Procedure Rule #12(b)(2), See Also Bishop Vs. State, 812 So. 2d 934 (2002) And See "Argument" And "Issue #2", Which is No Doubt An "Arguable Issue".

Next, Chairman Directs The Court's Attention To "Argument" And "Issue #3" Of Chairman's Motion For Post-Conviction Collateral Relief. Chairman Would Assert Here That His Life Sentence is ILLEGAL as a Matter Of Law. Chairman asserts Here That This "Argument" And "Issue #3" is NO Doubt An "ARGUABLE ISSUE". It's Clear in This "Argument" And "Issue #3" That The Trial Court Judge Was Without The Authority To Sentence Chairman To Life imprisonment For The Crime Of "Armed Robbery" As Charged in Count #2 Of Chairman's indictment "Exhibit A" Attached Hereto.

It Is Demonstrated That "Argument" And "Issue #3" is NO Doubt An "ARGUABLE ISSUE". We First Look At The Trial Record And Exhibit Evidence Attached Hereto. Exhibit B, indicates That The Trial Judge Sentenced Chairman To Life imprisonment For The Offense Of Armed Robbery, Winchiff as an Attorney Should Have Known That a Judge Cannot Sentence a defendant



TO Life Imprisonment For Armed Robbery Pursuant to SP-3-79. The  
 Statute Of Law is Very Clear. See Kennedy VS. State, 1626 So. 2d 103  
(1993), See Also Stewart VS. State, 372 So. 2d 257 (Miss. 1979).

Chapman Received ineffective Assistance Of Counsel And  
 Was Denied His Fundamental Constitutional Right To An Appeal  
 in Violation Of DUE PROCESS. See EVILS VS. WILLY, 469 U.S. 387  
(1985). Strickland VS. Washington, 466 U.S. 668 (1984).

Chapman Was Denied His Right To An Appeal Due  
 TO Counsel Hindlitt's Ineffectiveness. Chapman Should be Granted  
 The Relief Required So That He Can File A Meaningful Appeal.

IN THE SUPREME COURT OF MISSISSIPPI

ARGUMENTISSUE #5, Whether Chapman  
Received Ineffective Assistance  
Of Counsel.

IN THIS ARGUMENT CHAPMAN WOULD ASSERT HERE THAT HE RECEIVED INEFFECTIVE ASSISTANCE OF COUNSEL IN VIOLATION OF HIS 6<sup>TH</sup> AND 14<sup>TH</sup> AMENDMENT RIGHTS. --- THE SIXTH AMENDMENT PROVIDES CRIMINAL DEFENDANTS WITH THE RIGHT TO THE EFFECTIVE REPRESENTATION OF TRIAL COUNSEL. SEE, E.G., POWELL VS. ALABAMA, 287 U.S. 45, 66, 77 L. ED 158, 53 S. CT 55 (1932).

CHAPMAN'S FIRST CLAIM OF INEFFECTIVE ASSISTANCE OF COUNSEL IS AGAINST TRIAL COUNSEL, ATTORNEY JOHN WATSON WHO ALLOWED CHAPMAN TO PROCEED TO TRIAL ON A DEFECTIVE INDICTMENT AS ALLEGED IN "SEGMENT", "ISSUE #2" IN THESE PROCEEDINGS. ATTORNEY WATSON ALSO ALLOWED CHAPMAN TO BE SENTENCED AS A HABITUAL OFFENDER PURSUANT TO MISS. CODE ANN. § 99-19-83, THE EVIDENCE PRESENTED WAS INSUFFICIENT TO PROVE CHAPMAN'S HABITUAL OFFENDER STATUS UNDER § 99-19-83 AS ALLEGED IN ISSUE #1. AFTER CHAPMAN WAS GUILTY UPON CONVICTION FOR CONSPIRACY TO COMMIT ARMED ROBBERY, AND ARMED ROBBERY, ATTORNEY WATSON ALLOWED CHAPMAN TO BE SENTENCED TO LIFE FOR ARMED ROBBERY PURSUANT TO MISS. § 97-3-79. BY THE TRIAL JUDGE, THE STATUTE OF LAW, § 97-3-79 PROHIBITS A TRIAL JUDGE FROM IMPOSING A SENTENCE OF LIFE IN PRISON FOR ARMED ROBBERY. CHAPMAN WOULD ASSERT HERE THAT TRIAL COUNSEL, ATTORNEY JOHN WATSON PROVIDED INEFFECTIVE ASSISTANCE.

Chapman Cites The Authority Of Strickland Vs. Washington, 416 U.S. 688 (1984) in support of his claims of ineffective assistance of counsel. The right to counsel is the right to effective assistance of counsel. See also McMann Vs. Richardson, 397 U.S. 759, 771, n.14 (1970).

As Chapman's Trial Counsel, Attorney John Watson Had a Constitutional Duty To investigate and prepare a defense, Horse Vs. Balkcom, 725 F. 2d 1608, 618 (11th Cir. 1984), and to not proceed with a defense without evidence to support it, Young Vs. Zant, 671 F. 2d 792, 798 (11th Cir. 1982).

Chapman Brings To The Court's Attention And Asserts That His Claims of Receiving Ineffective assistance is Not based on what took place during trial, but, what took place before and after his trial, --- As Counsel Failed To protect his legal rights. Chapman would assert here that Counsel Watson deprived him of his right to effective assistance by failing to render adequate legal assistance.

Chapman Was indicted For "Conspiracy To Commit Armed Robbery" in Violation Of Section 97-1-1(C), Count #1, And "Armed Robbery" in Violation Of Section 97-3-79, Count #2. --- Count #3 Was Dismissed, see Chapman's indictment, Exhibit A Attached Hereto. A Jury Found Chapman Guilty Of "Conspiracy To Commit Armed", And "Armed Robbery". The Trial Court Judge Sentenced Chapman To Life on Each offense as a Habitual Offender Pursuant To Miss. Code Ann. 39-19-83, See "Exhibit B" Attached Hereto.

Chapman Would Assert Here That He Received ineffective Assistance Of Counsel, -- When Trial Counsel Proceeded To Trial On The Offense Of "Conspiracy To Commit Armed Robbery" Here, Trial Counsel Allowed Chapman To be Convicted Of A Crime That Failed To Charge The Elements Of The Offense. ... Count #1 "Conspiracy To Commit Armed Robbery" Fails To include The Conspiracy Elements. in Smith Vs. State, 881 So. 2d 908 (Miss. 2004), The Court Held That, "For There To be a Conspiracy, There Must be a Recognition On The Part Of The Conspirators That They Are Entering into a 'Common Plan' And 'Knowingly intend To Further its Common Purpose'". Chapman's Trial Counsel Should Have Known The Elements Of "Conspiracy", And Had The Conspiracy Count, Count #1 Dismissed For Failure To Charge an Offense, Here, Counsel's Representation Fell below An Objective Standard Of Reasonableness, Chapman Was Prejudice By Counsel's Performance, And There is a Reasonable Probability That, but For Counsel's Unprofessional Errors, The Result Of The Proceedings Would Have been Different.

Petitioner Chapman Would Assert Here, That Trial Counsel's Conduct Was Unreasonable Resulting in ineffective Assistance. There is no trial strategy to this argument And Counsel Should Have Noticed The Defect in The Conspiracy Count. Chapman Was Prejudice By Trial Counsel's Deficient Performance, When The Trial Judge Sentenced Chapman To Life imprisonment Without The Possibility Of Parole For A Crime That Fails To Charge an Element Of The Offense.

Chapman Would Assert Here That Trial Counsel Provided ineffective Assistance When He Failed To Object To The Trial Judge Sentencing Chapman To Life imprisonment For Armed Robbery.

Trial Counsel committed an error when he allowed Chapman to be sentenced to life imprisonment for Armed Robbery pursuant to MSA 397-3-79, which prohibits a Trial Judge from imposing a sentence of life imprisonment for Armed Robbery. Only a Jury can fix the penalty of life imprisonment for Armed Robbery. See Miss. Code Ann. 397-3-79.

Chapman would assert here that there is a reasonable probability that, but for Counsel's unprofessional errors, the result of Chapman's sentence, and the sentencing proceedings would have been different, because a Trial Judge cannot impose a sentence of life for Armed Robbery pursuant to MSA 397-3-79. Chapman would assert here that he was prejudiced by Counsel's errors which resulted in Chapman receiving an illegal sentence, which affects Chapman's fundamental constitutional right to be free from an illegal sentence, see Rowland vs. State, 42 So. 3d 503 (2010), Rowland vs. State, 48 So. 3d 632 (2012), Geyer vs. State, 120 So. 3d 464 (2013). Trial Counsel was ineffective and Chapman received ineffective assistance of Counsel.

After Chapman's trial the Court appointed W. Daniel Hinchliff, indigent appeals division, Office of State Public Defender for Chapman's appeal. Attorney Hinchliff filed his brief of the appeal, within the brief Counsel Hinchliff made a "Statement of Counsel" stating that he found "no" "arguable issues" for an appeal for Chapman. See "Statement of Counsel" "Exhibit G" attached hereto. If this Court find in Chapman's motion for post conviction collateral relief any issue raised to be an "arguable issue", with merits, then this Court will find that Chapman received ineffective assistance



OF Counsel, And Was Denied His Right To See Appeal. See Evitts Vs. Luley, 469 U.S. 387, 105 S.Ct. 830, 83 L.Ed 2d 821 (1985).

Hinchcliff Just Fick Out And Denied Chapman His Right To See Appeal And Effective Assistance Of Counsel As An Attorney, Hinchcliff Should Know The Law. Hinchcliff Should Know That A Trial Judge Cannot impose A Life Sentence Upon A Conviction For Armed Robbery Pursuant To McL 397-3-79. In His "Statement Of Counsel" Exhibit G, Hinchcliff Stated That He Searched The Entire Record. Right Now Chapman is serving An Illegal Life Sentence, That's An "Arguable Issue". --- Trial Counsel Allowed The Trial Court Judge To impose The Illegal Life Sentence, Which Affects Chapman's Fundamental Constitutional Right To be Free From An Illegal Sentence Trial Counsel Was ineffective, ineffective Assistance Of Counsel Claim On Trial Counsel, That's An "Arguable Issue".

There are Elements in Every Criminal Offense, And Lawyers Should Know The Elements Of Each Criminal Offense, The Statutes Provide Them "Conspiracy". When Chapman Was indicted For "Conspiracy To Commit Armed Robbery" He Was Required To Prove That Chapman Knew That He Was Entering A (Common Plan) And Intended To further its Common Purpose. It's Clear From Missing Elements in The Conspiracy Count, Count 1 That The indictment Was (3) insufficient To inform Chapman Of The Crime Of Conspiracy Which He Was Charged. Another "Arguable Issue".

Chapman Received ineffective Assistance Of Counsel From Two Lawyers, And He Should be Granted Relief, And Appointed Counsel To file His Direct Appeal.

IN THE CIRCUIT COURT OF DEBOTO COUNTY, MISSISSIPPI

Argument

Issue #6, Whether Chapman's Indictment Is A Legal Document

Chapman Would Assert Here That His Indictment Does Not Meet The Requirements Of Miss. Code Ann. § 99-7-9 PRESENTMENT. Chapman's Indictment Exhibit "A" Attached Hereto Is Not Sufficiently Identified As The Indictment Returned Against Chapman By The Grand Jury And Upon Which He Was Tried And Convicted Because Of Absence Of Filing Indictment Of The Circuit Clerk Required By Code 1906, Section 1418, Hemingway's Code 1927, Section 1235.

Chapman Submits That The Indictment Exhibit "A", Has Not been Marked Filed by The Clerk nor Noted as Required by Law and For This Reason is Utterly Void and The Judgment Should be Reversed. Smith Vs. State, 58 Miss. 867, Cooper Vs. State, 54 Miss. 267, Section 1235 of Hemingway's Code 1927, Holland Vs. State, 60 Miss. 939, Lea Vs. State, 64 Miss. 294, Stanford Vs. State, 76 Miss. 257, Pond Vs. State, 47 Miss. 39,

Chapman's Position is That The Indictment Exhibit "A" Attached Hereto, in The Record is Not Sufficiently Identified As The Indictment Returned Against Him by The Grand Jury, and Upon Which He Was Tried and Convicted, because of The Absence

OF The Filing indorsement OF The Clerk OF The Court, in Support Stamford VS. State, 76 Miss. 257, 24 So. 536. in "Stamford," The Court Held That, "The Clerk's Filing indorsement ON The indictment WAS The EXCLUSIVE Legal Evidence OF The Finding And Presentation OF The indictment."

THE Law Requires That The indictment must be marked Filed by The Clerk OF The Court, and That Such Entry be dated And Signed by The Clerk. See LRILE Rule 7.06 Indictments See ALSO, Watts VS. State, 981 So. 2d 1834 (Miss. Ct. App. 2008). Hunt VS. State, 11 So. 3d 764 (Miss. Ct. App. 2009). Jones VS. State, 356 So. 2d 1182 (Miss. 1978).

Chairman's indictment Exhibit A Attached Hereto, Fails The Requirements OF being a Legal Document. Chairman's indictment is Not Signed by The Clerk, Nor Has it been Stamped ("Filed") With The Court, And Under Mississippi's Law Chairman's indictment is Not a Legal Document, See Williamson VS. State, 124 Miss. 229, 1 So. 171 (1887). Chairman's indictment is invalid and His Convictions Should be Reversed.

It's Very Clear And Simple, That The Failure OF The Clerk TO Put His/Her Filing indorsement ON The indictment Would Render The Entire Proceedings Void, And Chairman is Entitled TO His Discharge.

Chairman's indictment Has been Certified AS a true Copy, but not Signed by The Circuit Court Clerk, The endorsement by The Foreman Together With The Marking, Dating And Signing by The Clerk Shall be The Legal Evidence OF The Finding And

Presenting to The Court of the indictment. Chairman's indictment was not been Filed in The Court by its Clerk. Therefore, there is no legal Evidence identifying it. And the Judgment of Chairman's Convictions should be Reversed and Chairman Discharged, by The Statute laws of The State of Mississippi.

The Remedy for this Violation by law is that Chairman's Convictions, Judgment of Conviction be Reversed and Chairman Discharged. ---, Trial Counsel was ineffective for allowing Chairman to be convicted on such an illegal indictment, which Prejudice Chairman's Right to Fairness, and Violated Chairman's Fundamental Constitutional Rights.

Chairman is Entitled to Relief.

In The Honorable Court Of DeSoto County, Mississippi

Relief Sought:

Chadman Respectfully Requests That This Honorable Court Will Relief in the interest of Justice and Fairness, And Appoint Counsel so that Chadman's Appeals Can be Reinstated, and All Other Relief This Court Deems Fair and Just Should be Granted.

Robert Chadman  
Robert Chadman  
Petitioner Pro Se

This the 2 day of JULY, 2019



IN THE DISTRICT COURT OF HENRY COUNTY, MISSISSIPPI

CERTIFICATE OF SERVICE

This is to Certify That I Have This Date, Caused To be Mailed, Via United States Mail, Postage Prepaid, A True And Correct Copy Of The Above And Foregoing Pleadings To:

Deke K. Thompson  
Circuit Court Clerk  
2535 Hwy. 51 S.  
Hernando, Ms. 38632

So Certified, This The 2 day Of July, 2019

Robert Clgo  
Robert Chapman, Relator Pro Se

Robert Chapman  
Miss # 1163212  
MALF Dorm, Bldg 2  
833 West Street  
Holly Springs, Ms. 38634

Additional Grounds:  
Ground Five: Whether Chairman Receive ineffective  
Assistance of Counsel

10

(A) SUPPORTING FACTS (do not argue or cite law, just state the specific facts that support your claim).

Chairman's Defense Counsel stated that he found no errors for appellate review (see Exhibit G attached). Chairman is trying to raise six (6) issues on the trial level. (Errors Counsel failed to find).

Ground Five is being raised for the very first time, see attached Application and Post-Conviction Relief attached.

Ground Six: Whether Chairman's indictment is a legal document

(A) SUPPORTING FACTS (do not argue or cite law, just state the specific facts that support your claim).

Chairman's indictment does not meet the requirements of the Presentment Statute.

Ground Six is being raised for the very first time, see attached Application and Post-Conviction Relief attached.

Page is continues

Additional Grounds:

Page 11

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

See Attached Exhibit G

(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four: Application For leave TO Proceed in The Trial Court TO File motion For Post-Conviction Relief. (See Attached PCR).

13. Please answer these additional questions about the petition you are filing:

(a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? Yes ☒ No ☐ See Attached Application and PCR

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them:

All grounds were presented TO The Supreme Court on Application For leave TO Proceed in The Trial Court TO File motion For Post-Conviction Relief. (See Attached)

(b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them: All grounds were presented TO The Supreme Court on An Application For leave TO Proceed in The Trial Court TO File motion For Post-Conviction Relief. (See both Attached).

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? Yes ☐ No ☒

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available. Direct Appeal (See no date of Court decision Result and The Court's Opinion is not available)

These six issues could have been presented if not for Counsel's ineffectiveness and denying Chapman's right TO An Appeal. (See Exhibit G Attached).

Page 12

15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? Yes ☐ No ☒

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing:

John Watson

(b) At arraignment and plea:

(c) At trial:

John Watson

(d) At sentencing:

John Watson

(e) On appeal:

See Exhibit C attached

(f) In any post-conviction proceeding:

See attached application for leave to proceed in the Tolsi Court to file post-conviction relief

(g) On appeal from any ruling against you in a post-conviction proceeding:

See attached pro se application and motion for post-conviction relief attached.

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes ☐ No ☒

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

(b) Give the date the other sentence was imposed:

(c) Give the length of the other sentence:

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? Yes ☐ No ☒

18. **TIMELINESS OF PETITION:** If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition.\*

Petitioner is Claiming an illegal sentence which does not bar this petition in part. The State Failed To Prove Chapman's Habitual Offender Status, in Violation Of due Process 14th Amendment. An illegal sentence is Fundamental And Overrules And Overcomes The One Year Statute Of Limitations. Chapman Cites The Authority Of Rowland vs. State, 42, 50, 3d 503 (8010).

The Petitioner is Seeking Leave An An Application For Leave To Proceed In The Trial Court To Raise The 312 Issues. See Attached Application And Motion For Post-Conviction.

Chapman Should have been granted leave to proceed in the Trial Court to file his motion for Post-Conviction Relief to raise his claims of an illegal sentence if nothing else, in violation of due Process 14th Amendment.

Chapman His issue of being denied an appeal Present To The Attached Exhibit 1. Should GPO have been granted. Chapman's Application For Leave To Proceed In The Trial Court Should have been granted (rights) of an illegal sentence is not time-barred.

\* The Antiterrorism and Effective Death Penalty Act of 1996 ("ARDPA") as contained in 28 U.S.C. § 2244(d) provides in part that:

(1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of—

(A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;

(B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;

(C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

(D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

(2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.



Page 14

Therefore, petitioner asks that the Court grant the following relief:

Grant Petitioner Chairman  
leave TO Proceed in The Trial Court TO Raise The issue / Claim(s)  
Of An illegal Sentence Resulting TO Rawland Vs. State, 42 So. 3d 503  
(2010) and Rawland Vs. State, 98 So. 3d 1032 (2012).

or any other relief to which petitioner may be entitled.

Robert Chalmers  
 Signature of Attorney (if any).  
 Petitioner Pro Se

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this  
 Petition for Writ of Habeas Corpus was placed in the prison mailing system on: 01 April March 3rd  
2020 (month, date, year).

Executed (signed) on: March 3rd 2020 (date).

Robert Chalmers  
 Signature of Petitioner Pro Se

Robert Chalmers #163212  
 Name (Print) Inmate Number

Marshall County Correctional Facility  
 Place of confinement

MCCF / APR 24  
833 West Street  
Holly Springs, MS 38635  
 Petitioner's mailing address

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing this  
 petition.

\*\*\*\*\*

IN THE UNITED STATES DISTRICT COURT,  
NORTHERN DISTRICT OF MISSISSIPPI

CERTIFICATE OF SERVICE

This is to Certify that I have caused to be Mailed  
Via United States Postage Prepaid A True and Correct Copy  
Of The Above Foregoing Pleadings to the Following Person(s):

U.S. District Court  
Northern District of Miss.  
Office of the Clerk  
203 Gilmore St.  
Amory, MS. 38821-5402

Jim Hood  
Attorney General(MS)  
P.O. Box #2220  
Jackson, MS. 39205-0220

So Certified this the 3rd day of March 2020.

Respectfully Submitted,  
Robert Chapman  
Petitioner Pro Se

Robert Chapman  
MSoc #163212  
MMF / ALPHA 4  
833 West Street  
Houma, LA 70335

Serial: 227982

**IN THE SUPREME COURT OF MISSISSIPPI**

**No. 2019-M-01099**

**ROBERT CHAPMAN A/K/A ROBERT E.  
CHAPMAN A/K/A "ROB"**

***Petitioner***

**FILED**

**v.**

**SEP 19 2019**

**STATE OF MISSISSIPPI**

OFFICE OF THE CLERK  
SUPREME COURT  
COURT OF APPEALS

***Respondent***

**ORDER**

This matter is before the panel of Kitchens, P.J., Ishee and Griffis, JJ., on the Application for Leave to Proceed in the Trial Court filed by Robert Chapman. The mandate in Chapman's direct appeal issued in 2013. Chapman's present petition is untimely. Miss. Code Ann. § 99-39-5(2). Moreover, the issues raised are without merit and do not meet any exception to the time bar. *See Means v. State*, 43 So. 3d 438, 442 (Miss. 2010). After due consideration, the panel finds the application should dismissed.

IT IS THEREFORE ORDERED that the Application for Leave to Proceed in the Trial Court filed by Robert Chapman is dismissed.

SO ORDERED, this the 18<sup>th</sup> day of September, 2019.


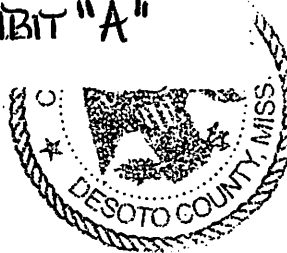
  
JAMES W. KITCHENS, PRESIDING JUSTICE

EXHIBIT "A"



STATE OF MISS., DESOTO COUNTY  
**CERTIFIED A TRUE COPY**

JAN 31 2019

STATE OF MISSISSIPPI  
SEVENTEENTH CIRCUIT COURT DISTRICT

DESOTO COUNTY

DALE K. THOMPSON, CIRCUIT CLERK  
BY Balbrath D.C.

MARCH 2007 GRAND JURY SESSION

CR 2007-0312 CD

THE GRAND JURORS of the State of Mississippi, taken from the body of the good and lawful citizens of DeSoto County thereof, duly elected, empaneled, sworn and charged to inquire in and for the County and State aforesaid, at the Grand Jury Session aforesaid, in the name and by the authority of the State of Mississippi, upon their oaths present:

COUNT 1

That **JOSHUA D. CHAPMAN (a/k/a Joshua D. Jackson)** and **ROBERT CHAPMAN**, Late of the County and State aforesaid, on or about the **26th** day of **DECEMBER**, in the year of our Lord **2006**, in the County and State aforesaid, and within the jurisdiction of this Court, did wilfully, unlawfully and feloniously, corruptly agree, conspire and confederate, each with the other and with divers others to the Grand Jury unknown, to commit a crime, to-wit: Armed Robbery, in direct violation of Section 97-1-1(a), Mississippi Code 1972 Annotated, as amended, contrary to the form of the statute in such cases provided, and against the peace and dignity of the State of Mississippi.

COUNT 2

That **JOSHUA D. CHAPMAN (a/k/a Joshua D. Jackson)** and **ROBERT CHAPMAN**, Late of the County and State aforesaid, on or about the **26th** day of **DECEMBER**, in the year of our Lord **2006**, in the County and State aforesaid, and within the jurisdiction of this Court, did wilfully, unlawfully and feloniously, take from the presence or person of Donna Ozment certain personal property, to-wit: one (1) purse with contents and approximately \$8,201.00 in United States currency, being the personal property of Citgo Service Station in Southaven, Mississippi, against the will of Donna Ozment, by putting Donna Ozment in fear of immediate injury to her person by the exhibition of a deadly weapon, to-wit: a 9 mm Glock handgun, in direct violation of Section 97-3-79, Mississippi Code 1972 Annotated, as amended, contrary to the form of the statute in such cases provided, and against the peace and dignity of the State of Mississippi.

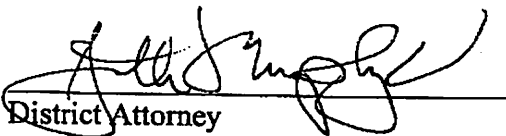
Exhibit "A"

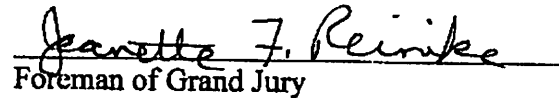
Page 1

**COUNT 3**

That **JOSHUA D. CHAPMAN (a/k/a Joshua D. Jackson)** and **ROBERT CHAPMAN**, Late of the County and State aforesaid, on or about the 26th day of **DECEMBER**, in the year of our Lord **2006**, in the County and State aforesaid, and within the jurisdiction of this Court, did wilfully, unlawfully and feloniously, knowingly and intentionally refused to bring his motor vehicle to a stop after being given a visible or audible signal by Jayson Fernandez and said Jayson Fernandez then and there being a law enforcement officer employed by the Southaven Police Department acting within the scope of his duty who had reasonable suspicion to believe that **JOSHUA D. CHAPMAN (a/k/a Joshua D. Jackson)** and **ROBERT CHAPMAN**, had committed a crime; and the said **JOSHUA D. CHAPMAN (a/k/a Joshua D. Jackson)** and **ROBERT CHAPMAN** then and there well knowing that Jayson Fernandez was, in fact, a law enforcement officer acting within the scope of his duty; further, that **JOSHUA D. CHAPMAN (a/k/a Joshua D. Jackson)** and **ROBERT CHAPMAN** operated his motor vehicle in a reckless manner with willful disregard for the safety of others or in a manner manifesting extreme indifference to the value of human life, in direct violation of Section 97-9-72 (2), Mississippi Code 1972 Annotated, as amended, contrary to the form of the statute in such cases provided, and against the peace and dignity of the State of Mississippi.

**A TRUE BILL**

  
District Attorney

  
Foreman of Grand Jury

Filed 15<sup>th</sup> day of March 2007; \_\_\_\_\_ Clerk

Recorded 15<sup>th</sup> day of March, 2007  
\_\_\_\_\_  
Clerk, BY: P. Darnell D.C.

	<u>Joshua D. Chapman</u>	<u>Robert Chapman</u>
Race/Sex:	Black/Male	Black/Male
DOB:	02/12/1986	01/11/1974
SSN:	409-57-6635	408-19-7019

N2

N2

Exhibit A

Page 2



EXHIBIT "B"

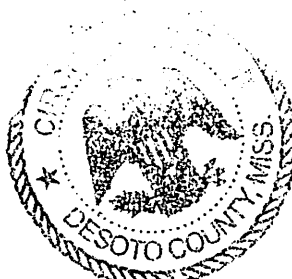
IN THE CIRCUIT COURT OF DESOTO COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

VS.

CAUSE NO. CR 2007-312-CD  
COUNTS 1 and 2

ROBERT CHAPMAN  
B/M DOB: January 11, 1974  
SSN: 408-1[REDACTED]



STATE OF MISS., DESOTO COUNTY  
CERTIFIED A TRUE COPY

JAN 31 2019

DENIAL of POST-TRIAL MOTIONS,  
HABITUAL OFFENDER HEARING and  
SENTENCE of THE COURT

DALE K. THOMPSON, CIRCUIT CLERK  
BY [Signature] D.C.

COMES the District Attorney, represented by ADA Smith Murphey, and comes also the Defendant, **ROBERT CHAPMAN** in his own person and represented by Counsel, John Watson, for the purposes of Post-trial Motions, a **HABITUAL OFFENDER** determination hearing and Sentencing with the defendant having been found guilty on September 23, 2010 of the crimes of **COUNT 1: CONSPIRACY** AND **COUNT 2: ARMED ROBBERY**.

The Court and the parties conducted a hearing and received evidence and testimony on October 26, 2010. The Court being fully advised of the premises, hearing arguments of counsel, found all Post-trial Motions to be without merit and are accordingly denied *in toto*.

The Court then proceeded to sentencing, and being fully advised in the matter, pronounced sentence against the defendant, **ROBERT CHAPMAN**. However, prior to

EXHIBIT "B"  
Page

FILED 27th DAY OF Oct 2010  
DALE K. THOMPSON, CIRCUIT CLERK  
DESOTO COUNTY, MISSISSIPPI  
MINUTE BOOK 291 PAGE 57-59

50  
imposing sentence the Court was presented evidence and conducted a **HABITUAL OFFENDER** hearing and makes the following findings of fact and law. The court finds as a matter of law and fact that the State has met its burden of proof and has proven the defendant, **ROBERT CHAPMAN**, to be, and the Court accordingly hereby finds the defendant **ROBERT CHAPMAN** to be and the Court is imposing its sentence *infra* as a **HABITUAL OFFENDER** under M.C.A. Section 99-19-83. The Court further conducted a proportionality analysis and finds that the sentence as imposed *infra* <sup>is</sup> not grossly disproportionate and should therefore be imposed.

**IT IS HEREBY ORDERED**, that the Defendant, **ROBERT CHAPMAN**, be and is hereby sentenced, in Count 1 for CONSPIRACY to serve a term of **LIFE IMPRISONMENT**, without the eligibility for parole, as a **HABITUAL OFFENDER** under M.C.A. Section 99-19-83, incarceration in the Mississippi Department of Corrections. Count 1 shall be served concurrently with Count 2.

**IT IS HEREBY ORDERED**, that the Defendant, **ROBERT CHAPMAN**, be and is hereby sentenced, in **COUNT 2: ARMED ROBBERY** to serve a term of **LIFE IMPRISONMENT**, without the eligibility for parole, as a **HABITUAL OFFENDER** under M.C.A. Section 99-19-83, incarceration in the Mississippi Department of Corrections.

Further Defendant shall pay all costs of Court, and payable within ninety days from his release from incarceration should that ever occur. The Defendant shall be given 148 days credit for time served while awaiting trial, as required by law. ~~The Defendant, ROBERT CHAPMAN, through court appointed counsel, William Travis, shall comply,~~

Exhibit "B"  
Page 2

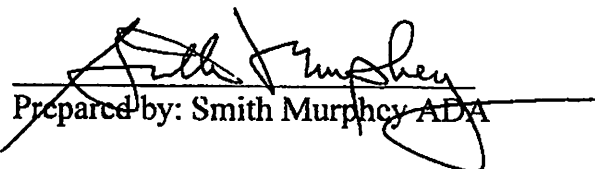
~~with all applicable deadlines for appeal beginning today within which to file a notice of appeal if so desired.~~

(12)

SO ORDERED this the 26<sup>th</sup> day of October, 2010, and entered nunc pro tunc this the 27 day of OCTOBER, 2010.



ROBERT P. CHAMBERLIN  
CIRCUIT COURT JUDGE



Prepared by: Smith Murphy ADA

Exhibit "B"  
Page 3

EXHIBIT "C"

IN THE CIRCUIT COURT OF DESOTO COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

VS.

ROBERT CHAPMAN

CAUSE NO. CR 2007-312-C(D)

STATE OF MISS., DESOTO COUNTY  
CERTIFIED A TRUE COPY

FEB 07 2019

MOTION TO AMEND INDICTMENT

COMES NOW the State of Mississippi, by and through the Office of the District Attorney, D.C.

and moves the Court pursuant to Uniform Circuit and County Court Rule 7.09, to amend the Indictment in the above cause in Counts 1 and 2, in the following particulars to reflect the defendant's Section 99-19-83 Habitual Offender Status, copies of said applicable two or more prior felony convictions are attached hereto and incorporated herein.

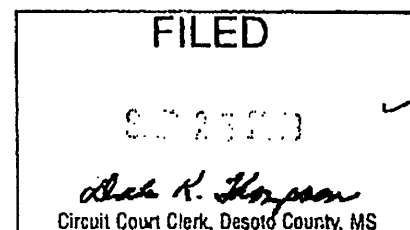
The State would show them as one of form, not substance, and that the indictment should further read subsequent to the elements of the offenses, in Counts 1 and 2, and preceding the "against the peace and dignity of the State of Mississippi" language, the following;

[INSERT]

"and the said Robert Chapman having been previously convicted of Reckless Endangerment in Case No. 93-10010, in the Criminal Court of Shelby County, Tennessee, and sentenced on January 13, 1995, to serve a term of two (2) years in the Custody of the Tennessee Department of Corrections for an offense occurring on September 8, 1993

"and the said Robert Chapman having been previously convicted of Criminal Attempted Murder 2<sup>nd</sup> Degree in Case No. 93-10011, Count 1, in the Criminal Court of Shelby County, Tennessee, and sentenced on January 13, 1995, to serve a term of twelve (12) years in the Custody of the Tennessee Department of Corrections for an offense occurring on September 8, 1993 consecutive to Case No. 93-10010;

EXHIBIT "C"  
Page 1



and the said Robert Chapman having been previously convicted of Sale of a Controlled Substance: Cocaine in Case No. 93-06344, Count 1, in the Criminal Court of Shelby County, Tennessee, and sentenced on February 22, 1995, to serve a term of three (3) years in the Custody of the Tennessee Department of Corrections for an offense occurring on May 6, 1993, said sentence concurrent with Cause No. 93-10010 and 93010011;

and the said Robert Chapman having been previously convicted of Aggravated Assault in Case No. WO700180, Count 1, in the Criminal Court of Shelby County, Tennessee, and sentenced on April 19, 2007, to serve a term of six (6) years in the Custody of the Tennessee Department of Corrections for an offense occurring on December 26, 2006;

and the said Robert Chapman having been previously convicted of Convicted Felon with a Firearm, in Case No. WO700180, Count 2, in the Criminal Court of Shelby County, Tennessee, and sentenced on April 19, 2007, to serve a term of four (4) years in the Custody of the Tennessee Department of Corrections for an offense occurring on December 26, 2006, and concurrent with Case No. WO700180, Count 1;

and the said Robert Chapman thus having been convicted twice previously of felonies upon charges separately brought and arising out of separate incidents at different times and having been sentenced to and served separate terms of one (1) year or more in a state and/or federal penal institution, and at least one (1) of such felonies having been a crime of violence; and the said Robert Chapman thereby coming under Section 99-19-83, Mississippi Code 1972 Annotated, as amended, a MISSISSIPPI HABITUAL OFFENDER STATUTE, contrary to the form of the statute in such cases provided, and against the peace and dignity of the State of Mississippi."

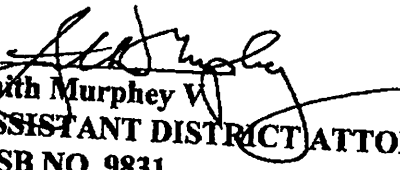
In support, the State would show the proposed amendment is one of form and not of substance. Copies of defendant's prior felonies are attached hereto and incorporated herein.

Exhibit "C"  
Page  
2



Respectfully submitted this the 24<sup>th</sup> day of September, 2009.

STATE OF MISSISSIPPI  
OFFICE OF THE DISTRICT ATTORNEY  
SEVENTEENTH CIRCUIT COURT DISTRICT  
365 Lusher Street, Suite 210  
HERNANDO, MISSISSIPPI 38632  
(662) 429-1374

BY:   
Smith Murphey V.  
ASSISTANT DISTRICT ATTORNEY  
MSB NO. 9831

**CERTIFICATE OF SERVICE**

I, Smith Murphey V., hereby certify that I have this day mailed, a true and correct copy of the above and foregoing Motion to Amend Indictment to John Watson P.O. Box 1366 Southaven, MS 38671 attorney for defendant Robert Chapman, and by hand delivery to Honorable Circuit Judge Robert P. Chamberlin, P.O. Box 280, Hernando, MS 38632.  
This the 24th day of September, 2009.

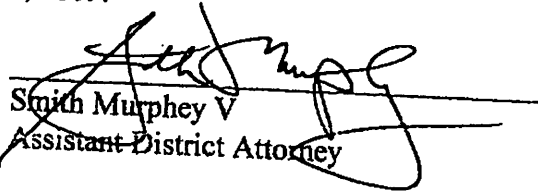
  
Smith Murphey V.  
Assistant District Attorney

Exhibit "1"  
Page 3

376  
EXHIBIT "D"

IN THE CIRCUIT COURT OF DESOTO COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

VS.

CAUSE NO. CR 2007-312-C(D)  
COUNTS 1 and 2

ROBERT CHAPMAN

ORDER AMENDING INDICTMENT

THIS CAUSE having come on for hearing on Motion of the District Attorney to amend Counts 1 and 2 of the indictment herein, and the Court having found that said Motion is well taken and should be sustained.

IT IS, THEREFORE, ORDERED that Counts 1 and 2 of the Indictment filed herein be, and the same is hereby amended to reflect, and the quoted language *infra* shall be inserted in each count of the indictment and shall precede the "against the peace and dignity of the State of Mississippi" concluding language in the indictment:

[INSERT]

"and the said Robert Chapman having been previously convicted of Reckless Endangerment in Case No. 93-10010, in the Criminal Court of Shelby County, Tennessee, and sentenced on January 13, 1995, to serve a term of two (2) years in the Custody of the Tennessee Department of Corrections for an offense occurring on September 8, 1993

"and the said Robert Chapman having been previously convicted of Criminal Attempted Murder 2<sup>nd</sup> Degree in Case No. 93-10011, Count 1, in the Criminal Court of Shelby County, Tennessee, and sentenced on January 13, 1995, to serve a term of twelve (12) years in the Custody of the Tennessee Department of Corrections for an offense occurring on

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EXHIBIT "D"  
Page 1  
FILED 28<sup>th</sup> DAY OF June, 2010  
DALE K. THOMPSON, CIRCUIT CLERK  
DESOTO COUNTY, MISSISSIPPI  
MINUTE BOOK 204 PAGE 376-378

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September 8, 1993 consecutive to Case No. 93-10010;

and the said Robert Chapman having been previously convicted of Sale of a Controlled Substance: Cocaine in Case No. 93-06344, Count 1, in the Criminal Court of Shelby County, Tennessee, and sentenced on February 22, 1995, to serve a term of three (3) years in the Custody of the Tennessee Department of Corrections for an offense occurring on May 6, 1993, said sentence concurrent with Cause No. 93-10010 and 93010011;

and the said Robert Chapman having been previously convicted of Aggravated Assault in Case No. WO700180, Count 1, in the Criminal Court of Shelby County, Tennessee, and sentenced on April 19, 2007, to serve a term of six (6) years in the Custody of the Tennessee Department of Corrections for an offense occurring on December 26, 2006;

and the said Robert Chapman having been previously convicted of Convicted Felon with a Firearm, in Case No. WO700180, Count 2, in the Criminal Court of Shelby County, Tennessee, and sentenced on April 19, 2007, to serve a term of four (4) years in the Custody of the Tennessee Department of Corrections for an offense occurring on December 26, 2006, and concurrent with Case No. WO700180, Count 1;

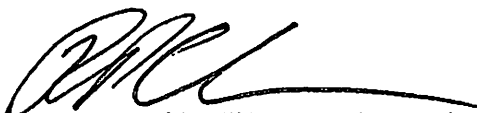
and the said Robert Chapman thus having been convicted twice previously of felonies upon charges separately brought and arising out of separate incidents at different times and having been sentenced to and served separate terms of one (1) year or more in a state and/or federal penal institution, and at least one (1) of such felonies having been a crime of violence; and the said Robert Chapman thereby coming under Section 99-19-83, Mississippi Code 1972 Annotated, as amended, a MISSISSIPPI HABITUAL OFFENDER STATUTE, contrary to the form of the statute in such cases provided, and against the peace and dignity of the State of Mississippi."

Exhibit D  
Page 2

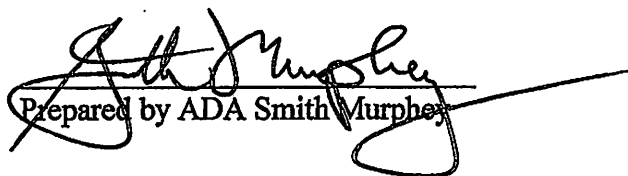
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**IT IS FURTHER ORDERED** that this Order to Amend Indictment be spread on the Minutes of this Court, and that notations be made in the file to reflect same.

**SO ORDERED** this the 28 day of June, 2010.



**ROBERT P. CHAMBERLIN**  
**CIRCUIT COURT JUDGE**



Prepared by ADA Smith Murphree

Exhibit "D"  
Page 3

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EXHIBIT "E"



EXHIBIT "E"

STATE OF TENNESSEE  
DEPARTMENT OF CORRECTION  
6th FLOOR RACHEL JACKSON BLDG.  
320 SIXTH AVENUE NORTH  
NASHVILLE, TENNESSEE 37243-0465  
OFFICE (615)741-1000 EXT. 8072

Davidson County     )  
                              )  
                              )  
State of Tennessee    )

I, Candace Whisman, having knowledge of the facts and information contained herein, do hereby swear and affirm as follows:

1. I am employed by the Tennessee Department of Correction (TDOC) as Director of Sentence Management Services.
2. I hereby certify that the following information as maintained in the Tennessee Department of Correction records of Robert Chapman, TDOC #00242962, DOB January 11, 1974, are true and correct.
3. Mr. Chapman was sentenced January 13, 1995, in Shelby County Case #9310011 and received a sentence of twelve years. He was awarded pre-trial jail credit in this case from September 9, 1993 up to date of sentencing for a total of 491 days. He served time in custody on this sentence for 2,432 days from January 13, 1995 until he was released to parole supervision on September 11, 2001. Parole was revoked and he was back in custody for 15 days from June 10, 2003 until June 25, 2003, when he was released back to parole supervision. This sentence expired while on parole supervision. Total time served on this sentence equaled 2,938 days.
4. Mr. Chapman was sentenced January 13, 1995, in Shelby County Case #9310010 and received a sentence of two years to be served consecutively to Case #9310011. He did not serve any time in custody on this sentence. The sentence effective date for this sentence was January 24, 2004, the expiration date of Case #9310011 and the expiration date was January 24, 2006. Mr. Chapman was on parole supervision during this time period.
5. Mr. Chapman was sentenced February 22, 1995, in Shelby County Case #9306344 and received a sentence of three years to be served concurrent with

EXHIBIT "E"  
Page 1

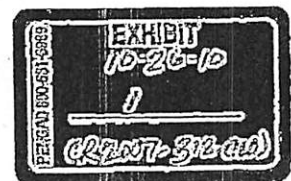


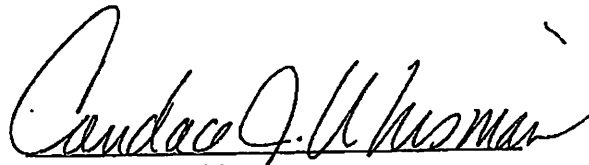


Exhibit "E"

Robert Chapman, #00242962  
Affidavit  
Page 2

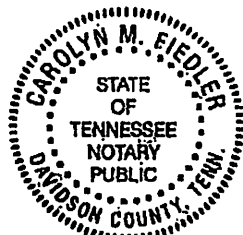
Case #9310011. He was awarded pre-trial jail credit in this case from May 6, 1993 to May 7, 1993, and November 3, 1993 up to date of sentencing for a total of 478 days. He served time in custody on this sentence for 427 days from February 22, 1995, until the sentence expired effective April 25, 1996. Total time served on this sentence equaled 905 days. This is the same credit that was also applied to Case #9310011 except for the two days from May 6, 1993 to May 7, 1993.

6. Mr. Chapman was sentenced April 19, 2007 in Shelby County Case #W0700180 ct. 1 and ct. 2 and received a total sentence of six years. He was awarded pre-trial jail credit in both of these cases from December 26, 2006 up to date of sentencing for a total of 114 days. He served time in custody on these sentences for 773 days from April 19, 2007 until he was released to parole supervision on June 1, 2009. Parole was revoked and he was back in custody for 71 days from April 15, 2010 until June 25, 2010, when he was released at expiration of sentence. Total time served on this sentence equaled 958 days.



Candace J. Whisman  
Director, Sentence Management Services

Sworn to and subscribed before me this  
29th day of June, 2010



My Commission Expires JULY 5, 2011


  
Carolyn Fiedler, Notary Public

Exhibit "E"  
Page 2

1 BY THE COURT: The Court calls on for  
2 hearing Cause No. 2007-312, State of  
3 Mississippi versus Robert Chapman.

4 Mr. Chapman, stand and raise your  
5 right hand and be sworn by the clerk,  
6 please, sir.

7 (DEFENDANT AND COUNSEL APPROACH THE BENCH AND  
8 THE DEFENDANT IS DULY SWORN BY THE DEPUTY CIRCUIT  
9 COURT CLERK.)

10 BY THE COURT: I will note that by  
11 order dated September 23rd, 2010, and  
12 signed on September 28th, 2010, that this  
13 Court entered an Order on the Trial  
14 Verdict finding Mr. Chapman guilty of the  
15 crimes of conspiracy and armed robbery.  
16 Post-trial motions and sentencing were  
17 continued until today.

18 Is the State ready to proceed?

19 BY MR. MURPHEY: Yes, Your Honor.

20 BY THE COURT: Are you ready to  
21 proceed, Mr. Watson?

22 BY MR. WATSON: Yes, sir.

23 BY THE COURT: All right. Mr. Watson,  
24 I see a Motion for JNOV or in the  
25 Alternative, Motion for New Trial. Are  
26 you ready on those motions?

27 BY MR. WATSON: Yes, sir, Your Honor.

28 BY THE COURT: All right. You're  
29 recognized.

EXHIBIT "F" Pages 260-278

EXHIBIT "F" is Page(s) 260-278

1 BY MR. WATSON: Your Honor, we're  
2 asking the Court for a Motion for JNOV or  
3 Motion for New Trial. I've set forth the  
4 issues in my written motion. I don't plan  
5 on going back through those unless the  
6 Court would like me to. I know we had the  
7 appropriate objections and appropriate  
8 motions at the time of the trial. Unless  
9 the Court would like, I'm not going to go  
10 back into those.

11 BY THE COURT: All right. Any further  
12 argument on it, Mr. Murphey?

13 BY MR. MURPHEY: No, Your Honor. I  
14 believe the Court and the State -- or on  
15 behalf of the State, we would stand by the  
16 record that was made and the rulings that  
17 were made by the Court at that time as to  
18 those issues and that the Court properly  
19 denied the Defendant's Motion to Suppress  
20 his statement. A full hearing was made of  
21 that, and in this particular case, as to  
22 the motion regarding the lack of the  
23 evidence, the jury had, I believe,  
24 sufficient and ample evidence before it by  
25 way of direct testimony from the  
26 codefendant and the eyewitnesses and  
27 officers involved that the Defense motion  
28 should be sustained.

29 BY THE COURT: All right. Anything

1 further, Mr. Watson, on the motion?

2 BY MR. WATSON: No, sir, Your Honor.

3 BY THE COURT: The Motion for JNOV or  
4 in the Alternative, Motion for New Trial  
5 will be denied. Noting two of the three  
6 allegations basically go to the weight of  
7 the evidence or presentation of the  
8 evidence. One of them being the denial of  
9 a directed verdict or peremptory  
10 instruction; the other being the weight of  
11 the evidence. The Court finds there was  
12 more than ample evidence presented for the  
13 jury to be allowed to make the decision,  
14 which they did in fact make. The Court  
15 will certainly stand by its ruling on  
16 those matters as well as the Court's prior  
17 ruling on the Motion in Limine to Suppress  
18 the Defendant's statement. Noting that  
19 the full facts were hashed out on the  
20 Motion to Suppress. The Court ruled on  
21 the matter. I'm satisfied with the  
22 ruling. I note the Defendant has brought  
23 forth no further issues or authority on  
24 it. The motion will be denied.

25 The State is recognized for any  
26 witnesses or evidentiary presentation  
27 regarding sentencing.

28 BY MR. MURPHEY: Yes, Your Honor. On  
29 June 28th, 2010, the Court received

1 Exhibit No. 1 that contained certified  
2 copies of the Defendant's prior  
3 convictions. Those same convictions are  
4 listed in his order amending him to a  
5 Section 99-19-83 habitual offender. The  
6 State would resubmit those, that they be  
7 incorporated within the hearing here  
8 today.

9 BY THE COURT: Any objection,  
10 Mr. Watson?

11 BY MR. WATSON: No, sir, Your Honor.

12 BY THE COURT: All right. Noting that  
13 the exhibits have previously been admitted  
14 in this cause. They will be incorporated  
15 into this sentencing by reference and  
16 certainly as exhibits already entered in  
17 this cause.

18 You may proceed, Mr. Murphey.

19 BY MR. MURPHEY: Further, Your  
20 Honor -- and I have shown to counsel  
21 opposite an affidavit from the Tennessee  
22 Department of Corrections Time Computation  
23 Department regarding the time the  
24 Defendant served on his prior felony  
25 convictions. I ask that be marked and  
26 received as an exhibit.

27 BY THE COURT: Any objection,  
28 Mr. Watson?

29 BY MR. WATSON: No, sir.



1 BY THE COURT: It will be so marked  
2 and received.

3 (SAME RECEIVED AND MARKED AS EXHIBIT  
4 NO. 1 INTO EVIDENCE AND WAS MADE A PART OF  
5 THIS RECORD.)

6 BY MR. MURPHEY: Your Honor, contained  
7 within the affidavit there -- or backing  
8 up just a little bit. In the court file,  
9 there's a transcript from the hearing that  
10 took place on June 28th when he was  
11 amended to be a Section 99-19-83 habitual  
12 offender. The Court noted at that time  
13 that given the documents -- I've tabbed it  
14 with a red tab in the court file, Your  
15 Honor, referring to the documents that  
16 have been just reintroduced to the Court.  
17 The Court at that time noted that the  
18 Defendant had in fact served a year or  
19 more by way of pretrial or jail credit  
20 that was given on two or more prior felony  
21 convictions. I would just draw the  
22 Court's attention to that, as well.

23 Looking at the affidavit that the  
24 Court has before it from the Time  
25 Computation Department, the Court will see  
26 that the Defendant has served 2,938 days  
27 on a criminal -- second degree -- criminal  
28 attempt second degree murder charge that  
29 occurred on September 8th, 1993. That

1 same document also reflects that the  
2 Defendant in Cause No. 93-06344, with an  
3 offense date of May 6th, 1993, served a  
4 term of 905 days for the sale of cocaine  
5 charge; and as reflected in Paragraph 6,  
6 the Defendant served 958 days on an  
7 aggravated assault and felon with a  
8 firearm charge. On at least two of these  
9 offenses, the Defendant has served a year  
10 or more on, including a violent crime, and  
11 would therefore meet the requirements of  
12 Section 99-19-83.

13 BY THE COURT: All right. Mr. Watson,  
14 you're recognized for any witnesses or  
15 evidentiary presentation.

16 BY MR. WATSON: Your Honor, just as  
17 far as the serving one year, for the  
18 record, Mr. Chapman has asked that I  
19 object and say that he's not 83 eligible  
20 in that on the -- in the '93 charges that  
21 he -- although they were periods of one  
22 year or more that he served those  
23 concurrently, and just for the record, I  
24 make that objection on his behalf. That's  
25 what he asked me to do.

26 And then, further, in reference to the  
27 felon in possession of a firearm charge,  
28 that charge actually stemmed from -- after  
29 this incident, they fled into Memphis, and

1           that's where that charge came about, which  
2           was arising out of this same occurrence  
3           for this. So for the record, on  
4           Mr. Chapman's behalf, I do object and say  
5           that the one year element has not been  
6           met.

7           BY THE COURT: Anything further,  
8           Mr. Watson?

9           BY MR. WATSON: No, sir, Your Honor.

10          BY THE COURT: Anything further,  
11          Mr. Murphey?

12          BY MR. MURPHEY: Your Honor, I believe  
13          the case law bears out that servings of  
14          time on concurrent sentences does in fact  
15          meet the requirements of Section 99-19-83  
16          provided that they are separate instances.  
17          As to the Defendant's second degree murder  
18          charge and sale of cocaine, I don't  
19          believe it's disputed that those are on  
20          two different dates, and that, at a  
21          minimum, meets the requirements of  
22          Section 99-19-83. The events in Case  
23          No. W07-00180, Counts 1 and 2, the  
24          aggravated assault and felon with a  
25          firearm, those are events that the  
26          Defendant committed in Memphis. They were  
27          events that occurred after the events that  
28          happened in the armed robbery here in  
29          Mississippi.

1                    BY THE COURT: Mr. Murphey, let me  
2                    make sure. I have a number of convictions  
3                    here. What are the two you are alleging  
4                    he served more than one year on?

5                    BY MR. MURPHEY: Cause No. 93-10011.

6                    BY THE COURT: Okay.

7                    BY MR. MURPHEY: And Cause  
8                    No. 93-06344. The first one being the  
9                    murder, second degree murder, and the  
10                   second one being sale of cocaine. Both  
11                   different offense dates.

12                   (PAUSE IN PROCEEDINGS.)

13                   BY THE COURT: All right. Regarding  
14                   Mr. Chapman, first and foremost, I find  
15                   the State has met the burden of proving  
16                   beyond a reasonable doubt that Mr. Chapman  
17                   is in fact a Section 99-19-83 habitual  
18                   offender. He has served over -- he has  
19                   been convicted of two or more felonies.  
20                   He has served over one year on two or more  
21                   felonies, with one of those felonies being  
22                   a crime of violence. I will note that the  
23                   sale of cocaine charge and the attempted  
24                   murder -- sale of cocaine conviction and  
25                   attempted murder conviction clearly  
26                   indicate separate -- not only separate  
27                   offense dates but apparently at least  
28                   several months apart, therefore, being  
29                   convictions that arise out of separate

1 occurrences or transactions. Mr. Chapman  
2 does fall within the definition of Section  
3 99-19-83.

4 I will note there's simply no need to  
5 go through -- they're in evidence -- a  
6 large number of felony convictions that  
7 range from sale of cocaine to attempted  
8 murder, reckless endangerment, felon in  
9 possession of a firearm, aggravated  
10 assault, just a large history. Certainly,  
11 nothing that would in any manner call into  
12 account the mandates of Section 99-19-83.  
13 I will note in that regard, given the  
14 nature of the statute under which  
15 Mr. Chapman is to be sentenced, first and  
16 foremost, the Court does affirmatively  
17 find --

18 Did you need to say something,  
19 Mr. Watson?

20 BY MR. WATSON: Are you just ruling on  
21 the 83 habitual at this point?

22 BY THE COURT: I was about to sentence  
23 him.

24 BY MR. WATSON: Well, I do have -- I  
25 apologize. I was just making an argument  
26 for that. I do have some documents to  
27 present.

28 BY THE COURT: Y'all have more  
29 evidence on the sentencing hearing?

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BY MR. WATSON: Yes, sir.

BY THE COURT: Okay. Let me back up then. Mr. Watson, you're recognized for any additional evidence.

BY MR. WATSON: Yes, sir. Your Honor, I have two cases here. I think the Court has seen these before. Mr. Murphey has seen them. One is CR-2005-76-CD, Brian Blocker. In this case, Mr. Blocker was sentenced on an armed robbery as an 81 habitual offender. Mr. Blocker received a sentence of five years in the Mississippi Department of Corrections, and Mr. Blocker had a previous armed and previous possession of a controlled substance conviction.

The other is CR-2007-54-CD, Donald Hensley. Mr. Hensley was sentenced as an 81 habitual offender on an armed robbery charge. Mr. Hensley had previous convictions of simple robbery, two simple robberies, an attempted carjacking, three driving while habitual traffic offenders, one theft over \$1,000, and one attempted robbery. I'd just like to make those exhibits to this hearing.

And I apologize, Your Honor. I was trying to separate the habitual offender argument from the sentencing.



(PAUSE IN PROCEEDINGS.)

BY MR. WATSON: And Your Honor, as we previously can see with those, those are pleas and those are 81 habituals, and I understand that's not the posture we're in here today; but considering the burden that Mr. Chapman has to -- that we have to try to meet, I did find some cases similar -- on at least similar circumstances, and that's all the evidence we would have.

BY THE COURT: Any other evidence, Mr. Murphey?

BY MR. MURPHEY: Nothing further.

BY THE COURT: All right. I will note -- first of all, I note -- first and foremost, obviously, the two cases submitted by counsel, as acknowledged by counsel, appear -- well, first and foremost, they appear to constitute pleas, which I believe that they are, and both being listed as habitual offenders. I don't necessarily see where Hensley is designated as a --

BY MR. WATSON: It's in the sentencing order, Your Honor, that it is armed robbery as a habitual.

BY THE COURT: Right, but it doesn't designate 81 or --

BY MR. WATSON: It was 81. I'll

1 concede it was 81.

2 BY THE COURT: Noting on the one hand,  
3 that's somewhat apples to oranges, but on  
4 the other hand, they certainly are armed  
5 robbery convictions. They certainly are  
6 habitual offender statutes, which do  
7 involve multiple felony convictions.  
8 Although, as noted in this case,  
9 additional criteria required are a crime  
10 of violence, which I note it appears  
11 Mr. Blocker certainly -- well, both  
12 defendants submitted by Mr. Watson appear  
13 to have had prior crimes of violence.  
14 There's certainly no evidence as to what  
15 had been submitted. Noting those were  
16 plea bargain agreements.

17 In that regard, I, once again,  
18 reiterate that Mr. Chapman has, simply  
19 stated, put together a body of work to  
20 make this an appropriate sentence. I find  
21 affirmatively that the sentence is  
22 proportionate to the crime committed by  
23 Mr. Chapman of which he's been convicted  
24 and his prior criminal history.

25 Pursuant to Section 99-19-83, I'll  
26 sentence Mr. Chapman to a term of life in  
27 the state penitentiary. Give him credit  
28 for 148 days time served. I'll order him  
29 to pay all court costs and assessments.

1 Are there any other assessments,  
2 Mr. Murphey?

3 BY MR. MURPHEY: No, Your Honor.

4 BY THE COURT: All right. All terms  
5 and conditions of the Written Sentencing  
6 Order will be incorporated into the  
7 sentence by reference.

8 Anything further from the State?

9 BY MR. MURPHEY: No, Your Honor.

10 BY THE COURT: Anything further,  
11 Mr. Watson?

12 BY MR. WATSON: No, sir.

13 BY THE COURT: That will be the order  
14 of the Court.

15 Mr. Chapman will be remanded back to  
16 the custody of the DeSoto County Sheriff's  
17 Department to await transportation to the  
18 Mississippi Department of Corrections.

19 I'm sorry, Mr. Watson. Let me -- one  
20 moment.

21 I note you are retained on this case;  
22 is that correct?

23 BY MR. WATSON: That's correct, Your  
24 Honor.

25 BY THE COURT: Have you been retained  
26 to perfect on appeal on behalf of  
27 Mr. Chapman?

28 BY MR. WATSON: I have not, Your  
29 Honor.

1 BY THE COURT: I'm going to go ahead  
2 and appoint an attorney for Mr. Chapman  
3 for appeal. I'm going to appoint  
4 Mr. Travis as Mr. Chapman's attorney.

5 Mr. Chapman, if you intend to hire  
6 Mr. Watson or hire other counsel, you  
7 certainly are entitled to do that, but  
8 without Mr. Watson having been retained, I  
9 want to make sure you are with counsel at  
10 all times. So if Mr. Watson is retained  
11 or something of that nature, he can take  
12 the necessary steps to take over the  
13 appeal if that becomes necessary, but by  
14 appointing Mr. Travis, that will assure  
15 that you have an opportunity to have your  
16 appeal, first of all, timely reviewed for  
17 the possibility of appeal and then  
18 certainly perfected for appeal. Do you  
19 understand?

20 BY THE DEFENDANT: Yes, sir.

21 BY THE COURT: Do you have any  
22 questions?

23 BY THE DEFENDANT: No, sir.

24 BY THE COURT: All right. You may  
25 step down, sir.

26 (RECESS.)

27 BY THE COURT: The Court recalls Cause  
28 No. 2007-312, State versus Robert Chapman.

29 Mr. Chapman, come forward, please,

1 sir.

2 Regarding Mr. Chapman, I've called him  
3 back forward. Just I will note, in  
4 sentencing Mr. Chapman, I had neglected to  
5 sentence on Count 1, the conspiracy  
6 charge. For the record, I want to make  
7 clear that the sentence handed down a  
8 moment ago is for Count 2, the armed  
9 robbery.

10 Let me make sure I've got my count  
11 numbers right.

12 BY MR. WATSON: That's right, Your  
13 Honor. I think you granted the directed  
14 verdict on Count 3, the fleeing.

15 BY THE COURT: Okay.

16 BY MR. WATSON: I believe that's  
17 correct.

18 BY THE COURT: So I'll note the  
19 sentence handed down was on Count 2, armed  
20 robbery. I'll note on Count 1, the  
21 conspiracy charge, noting certainly no --  
22 the analysis being the same as earlier  
23 regarding -- of course, noting Count 2 a  
24 much more serious charge, but Count 1  
25 being a conspiracy to commit that charge.

26 The Court finds the appropriate  
27 sentence to be a life sentence as a  
28 Section 99-19-83 habitual offender.  
29 Mr. Chapman will get credit for 148 days

1 time served. That will run concurrent  
2 with the sentence in Count 2. All other  
3 terms and conditions of the Written  
4 Sentencing Order will be incorporated into  
5 the sentence by reference.

6 Anything further regarding Count 1,  
7 Mr. Murphey?

8 BY MR. MURPHEY: No, sir, Your Honor.  
9 There was a thousand dollar fine, I  
10 believe, and court costs; correct?

11 BY THE COURT: I don't recall on  
12 Count 2.

13 BY MR. WATSON: I think it was just  
14 court costs.

15 BY THE COURT: I believe it was court  
16 costs. I didn't really see a need to fine  
17 a man that's going to spend the rest of  
18 his life, under the law now -- that  
19 doesn't mean what happens, but in prison.

20 BY MR. MURPHEY: Yes, sir.

21 BY THE COURT: I only assessed court  
22 costs because I felt like I have to.

23 You can step down, Mr. Chapman.

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26 This is to certify that the above is a true and  
27 correct transcript of my shorthand notes taken in  
28 said cause.  
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Michelle P. Haberstroh

September 30, 2012

Michelle P. Haberstroh  
CSR #1423  
Official Court Reporter

COURT REPORTER'S CERTIFICATE

STATE OF MISSISSIPPI

COUNTY OF DESOTO

I, Michelle P. Haberstroh, Official Court Reporter for the Seventeenth Circuit Court District of the State of Mississippi, do hereby certify that to the best of my skill and ability I have reported the proceedings had and done in the trial of STATE OF MISSISSIPPI VS. ROBERT CHAPMAN, being No. CR-2007-312-RCD on the docket of the Circuit Court of DeSoto County, Mississippi, and that the above and foregoing 21 pages contain a true, full and correct transcript of my stenotype notes taken in said proceedings with the assistance of computer aided transcription.

This is to further certify that I have this date filed the original and one copy of said transcript along with one electronically formatted CD-ROM of said transcript in Adobe Portable Document Format (PDF) for inclusion in the record on appeal with the Clerk of the Circuit Court of Desoto County at Hernando, Mississippi, and have notified the attorneys of record, the Circuit Court Clerk of the Supreme Court of my actions herein.

I do further certify that my certificate annexed hereto applies only to the original and certified transcript and electronically formatted CD-ROM. The undersigned assumes no responsibility for the accuracy of any reproduced copies not made under my

1 control or direction.

2 This the 10th day of October, 2012.

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7 Michelle P. Haberstroh

8 Official Court Reporter

9 MS CSR No. 1423

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Exhibit "G"  
Page 1

**ARGUMENT**

None

**STATEMENT OF COUNSEL**

1. I, W. Daniel Hinchcliff, counsel for the Appellant, hereby represent to the Court, pursuant to *Lindsey v. State*, 939 So. 2d 743 (Miss. 2005), that counsel diligently searched the procedural and factual history of this criminal action and scoured the record searching for any arguable issues which could be presented to the Court on Robert Chapman's behalf in good faith for appellate review, and upon conclusion, have found none.
2. The matters considered, reviewed and included in counsel's search were: (a) the reason for the arrest and circumstances surrounding the arrest of Robert Chapman; (b) any possible violation of Robert Chapman's right to counsel; (c) the entire trial transcript; (d) all rulings of the trial court; (e) possible prosecutorial misconduct; (f) all jury instructions; (g) all exhibits, whether admitted into evidence or not; (h) possible misapplication of the law in sentencing; and (i) the indictment and all the pleadings in the record; (j) any possible ineffective assistance of counsel issues; (k) jury selection, possible dismissal, voir dire, misconduct of or affecting the jury, jury composition, and number of peremptory challenges pursuant to UCCCR 10.01 and under *Osbourne v. State*, 404 So. 2d 545 (Miss. 1981); *Foxworth v. State*, 94 So. 3d 1178 (Miss. App. 2011), (l) any speedy trial issues in light of recent decisions *McBride v. State*, 61 So. 3d 138 (Miss. 2011); *Johnson v. State*, 68 So. 3d 1239 (Miss. 2011); and *Bailey v. State*, 78 So. 3d 308 (Miss. 2012); and (m) sentencing issues, particularly relating to amended indictments charging the defendant as an habitual criminal under the rule announced in *Gowdy v. State*, 56 So. 3d 540 (Miss. 2010), and to proportionality of sentence under *Whitlock v. State*, 47 So. 3d 665 (Miss.

Exhibit "G"  
Page 1

EXHIBIT "G" Page 2

2010), all as contained within the four corners of the present record, and any other possible reviewable issues.

3. Counsel confirms that he has, on the date of the filing of this brief, mailed by first class mail, postage prepaid, a copy of this brief and correspondence informing Robert Chapman that counsel finds no arguable issues in the record and that Appellant has the right to file a pro se brief.

4. Counsel for Appellant request that this Court grant Robert Chapman an additional 40 days of additional time in which to file his pro se brief, if he desires to do so. Separate Motion for Expansion of Time is being filed with this Brief.

5. Counsel stands ready to prepare supplemental memoranda of law on any issues requested by this court.

### CONCLUSION

There are no issues that counsel can in good faith present to this Court in the appeal on this matter.

Respectfully submitted,

ROBERT CHAPMAN

By:

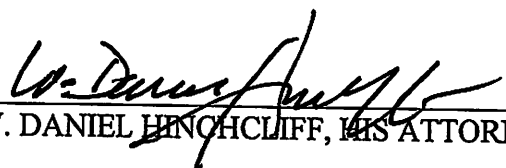
  
W. DANIEL HINCHCLIFF, HIS ATTORNEY

EXHIBIT "G" Page 2

IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI

DATE: JULY 2 2019

FROM: ROBERT CLAYMAN  
MDOC #1163012  
MELF / DORM 32  
833 WEST STREET  
HOLY SPRING, MS. 38634

TO: MURIEL B. ELLES  
SUPREME COURT CLERK  
POST OFFICE BOX #249  
JACKSON, MS. 39203-0249

RE: Application For leave TO Proceed in the Trial Court,  
with Motion For Post-Conviction Relief, Attached TO be  
Filed with this Honorable Court.

DEAR CLERK,

Please Find Enclosed For Filing Petitioner's Application  
For leave TO Proceed in The Trial Court, with Motion For  
Post-Conviction Relief, Attached.

Sincerely,  
Robert Clayman  
Petitioner To be



IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI

ROBERT CHAPMAN

PETITIONER PRO SE

VS.

LAKE NO.

STATE OF MISSISSIPPI

RESPONDENT

APPLICATION FOR LEAVE TO PROCEED IN THE TRIAL COURT

COMES NOW, ROBERT CHAPMAN, Petitioner Pro Se, And Files This His Application For Leave To Proceed In The Trial Court Of DESBORO County, Mississippi, Pursuant To Mississippi Code Annotated Section 99-39-27, And in Support Thereof, Would Show Unto This Honorable Court The Attached Motion For Post-Conviction Relief. The Petitioner PRAYS That This Honorable Court Will Find The Attached Motion Well Taken And Will Grant Petitioner Pro Se, Leave To Proceed With Said Motion in the Proper ~~Court~~ Court.

This The 2 DAY JULY, 2019.

Respectfully Submitted,

Robert Chapman  
PETITIONER PRO SE

IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI

REASONS WHY THIS COURT  
SHOULD GRANT CHAPMAN'S APPLICATION  
FOR LEAVE TO PROCEED IN THE TRIAL COURT:

Petitioner Robert Chapman was indicted for Conspiracy  
Count #1 in Violation of § 97-1-1 (a), and Armed Robbery, Count #2  
in Violation of § 97-3-79 and Reckless Driving Count #3 in Violation  
of § 97-9-72 (2). Chapman was NOT indicted as an  
Habitual Offender.

The State Filed A Motion TO AMEND indictment  
Pursuant TO MLLR Rule 7.09 TO Reflect Chapman's Status  
as an Habitual Offender Under Section § 99-19-83.  
Once Motion Filed September 24th 2009 and Filed Another  
Motion On June 28th 2010.

Chapman is Claiming Here That The State Failed TO  
Prove His Habitual Offender Status beyond A Reasonable  
Doubt And That The Habitual Portion Of His Sentence is  
ILLEGAL.... Chapman is Claiming an ILLEGAL Sentence.

TO Show That Chapman's Claim is NOT Time-barred,  
When Claiming an illegal sentence Chapman Cites The  
Authority Of Rowland VS. State 42 So. 3d 603 (2010), in  
Which The Mississippi Supreme Court Held That, Claims That  
implicate A Fundamental Right Are Excepted From The  
Procedural bars Of The Uniform Post-Conviction Collateral

Relief Act (CPLRA), in Rawland. The Court further held that errors affecting fundamental rights are exceptions to the rule that questions not raised in the trial court cannot be raised for the first time on appeal. Litton Read Vs. State, 430 So. 2d 832 (Miss. 1983); Brooks Vs. State, 209 Miss. 150, 46 So. 2d 94 (1950). See also WY Vs. State, 731 So. 2d 601 (1999).

In Rawland Vs. State, 98 So. 3d 1032 (2012), the Mississippi Supreme Court, held that--- "A claim of illegal sentence or denial of due process in sentencing also must be considered regardless of when it is raised and is not time barred under the three-year statute of limitations of the Uniform Post-Conviction Collateral Relief Act (CPLRA) because the state is without the authority or right to impose a sentence illegally or without due process".

Chairman is entitled to ask the Court to correct his illegal sentence because the issue is fundamental and violates Chairman's rights to due process of law. In Goyer Vs. State, 120 So. 3d 964 (2013), the Mississippi Supreme Court held that, "An accused has a fundamental right to be free of an illegal sentence".

Chairman respectfully requests that this Court grant leave to proceed in the trial court so that he can be free of his illegal sentence in violation of his fundamental constitutional rights to due process of law.

Robert Chap  
Petitioner Pro Se

IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI

RELIEF.

ADDITIONAL RELIEF IN SUPPORT  
OF APPLICATION FOR LEAVE TO PROCEED  
IN THE TRIAL COURT OF DESSO COUNTY,  
MISSISSIPPI.

Petitioner Chapman Respectfully Requests Additional Relief in Support Of Said Application For Leave To Proceed in the Trial Court Of DeSoto County, Mississippi, Pursuant To Violations Of His Constitutional Rights Of The United States And The Mississippi Constitution.

A Review Of Said Attached "Motion For Post-Conviction Collateral Relief" Will Reflect Unfairness, Injustice, Prejudice, And Violations Of Fundamental Constitutional Rights, An Illegal Sentence, Conviction Of An Offense Not Charged in the indictment, Denial Of An Appeal And Ineffective Assistance Of Counsel.

Issues Are Being Raised That Are Not Subjected To Time-barred This Request For An Appeal Comes Untimely Due To Attorney Winchell's "Statement Of Counsel," "Exhibit G" Attached To Said Motion For Post-Conviction Collateral Relief.

For The Above Reasons, Said Application For Leave To Proceed In The Trial Court Should be Granted.

Robert Chapman, Pro Se  
Robert Chapman, Pro Se

IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI

CERTIFICATE OF SERVICE

This is to Certify That I Have This Date, Caused to Be Mailed, Via United States Mail, Postage Pre-paid, A True And Correct Copy Of The Above And Foregoing Pleadings TO:

Muriel B. Ellis  
Supreme Court Clerk (MS.)  
Post Office Box #249  
Jackson, MS. 39205-0249

Jim Hood  
Attorney General's Office  
Post Office Box #220  
Jackson, MS. 39205-0220

SO CERTIFIED, This The 2 Day Of July, 2019

Respectfully,  
Robert Chapman  
Petitioner Pro Se

Robert Chapman  
MSOC #1163212  
MCCF / Dorm B2  
833 West Street  
Holly Springs, MS. 38634

IN THE CIRCUIT COURT OF DESSO COUNTY, MISSISSIPPI

DATE: JULY 2, 2019

FROM: ROBERT LUSHMAN  
MIDOL #1163212  
MALE / DORM / B2  
833 WEST STREET  
HOLLY SPRINGS, MS. 38634

TO: DALE K. THOMPSON  
CIRCUIT COURT CLERK  
2535 HWY. 51 S.  
HERNANDO, MS. 38632

RE: MOTION FOR POST-CONVICTION COLLATERAL RELIEF TO  
BE FILED IN THIS HONORABLE COURT.

DEAR CLERK,

Please Find Enclosed For Filing Petitioner's Motion For  
Post-Conviction COLLATERAL RELIEF, Upon Filing Please Return  
a COPY OF SAID MOTION TO THE PETITIONER "STAMPED FILED".

Respectfully Submitted  
Robert Lushman  
Petitioner Pro Se



IN THE UNITED STATES DISTRICT COURT,  
NORTHERN DISTRICT OF MISSISSIPPI

DATE: MARCH 3rd, 2020

FROM: Robert Chapman  
M.D.C. # 1163212  
MCCF/ALPHA 4  
833 West Street  
Holly Springs, MS. 38635

TO: U.S. District Court  
Northern District of Miss.  
Office of the Clerk  
203 Gilmore Dr.  
Amar, MS. 38821-5402

RE: 28 U.S.C. 32254 For a writ of Habeas Corpus to  
be Filed in this Court.

Dear Clerk,

Please Find Enclosed For Filing Petitioner's Writ of  
Habeas Corpus. The Petitioner will pay the \$5. Filing  
Fee When He Receives The Case Number.

Robert Chapman  
Petitioner Pro Se

Marshall County Correctional Facility  
P.O. Box 5188  
Holly Springs, MS 38634-5188

Case: 3:20-cv-00200-GHD-JMV Doc #: 1 Filed: 07/06/20 98 of 98 PageID #: 98

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07/02/2020

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ZIP 38635  
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Northern District of Miss.  
Office of the Clerk  
203 Gilmore Dr.  
Amory, MS. 38821-5402

RECEIVED

JUL 6 2020

United States District Court  
Northern District of Mississippi